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Letter dated 12 May 2011 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessment of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Patrick **Robinson**
President

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Annex I

[Original: English and French]

Assessment and report of Judge Patrick Robinson, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004)

(covering the period from 15 November 2010 to 15 May 2011)

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1. This report is submitted pursuant to Security Council resolution 1534 (2004) adopted on 26 March 2004 in which the Council, in paragraph 6 of the resolution, requested the International Tribunal for the Former Yugoslavia "to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions".[1]

2. This report also includes a summary of the measures that the Tribunal is undertaking to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

I. Introduction

3. At the close of the reporting period, 17 persons are in appeal proceedings, 14 persons are on trial and three are at the pretrial stage. Two accused — Ratko Mladić and Goran Hadžić — remain at large. To date, the Tribunal has concluded proceedings against 125 of the 161 persons it indicted.

4. During the reporting period, the Tribunal faced unprecedented challenges, but also achieved unprecedented advancement in the implementation of its Completion Strategy. The Tribunal conducted proceedings in nine trials concurrently by doubling-up Judges and staff so that they were working on more than one case at a time. During the reporting period, the *Đorđević* trial and the *Gotovina et al.* trial were brought to a close. The *Perišić* trial is anticipated to be completed this year. Six trials are anticipated to conclude in 2012, and the *Karadžić* trial should be completed in 2014.

5. During the reporting period, one judgement on review was issued. Appeals from four trial judgements are currently pending before the Appeals Chamber. The Judges of the Appeals Chamber also remained fully engaged in appeals from the International Criminal Tribunal for Rwanda, rendering two judgements and hearing three cases.

6. The Tribunal continues to take all measures possible to expedite its trials, without sacrificing due process. Over the years, the Tribunal has continually kept its procedures under review and has introduced a variety of reforms in order to improve its work. These reforms are detailed in the report below and include the use of e-Court and e-Filing, amendments to the Rules of Procedure and Evidence, and case management techniques.

7. However, the pace of the Tribunal's trials and appeals continued to be affected by staffing shortages and the loss of highly-experienced staff members. Despite

[1] The present report should be read in conjunction with the previous 14 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; and S/2010/588 of 19 November 2010.

resolutions by the General Assembly and the Security Council on the issue of staff retention, this problem persists. Without practical and effective staff retention measures, the Security Council should expect the estimates for the completion of the core work of the Tribunal to continue to have to be revised in subsequent reports.

8. The Tribunal has transferred all low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003). The Prosecutor, with the assistance of the Organization for Security and Cooperation in Europe (OSCE), continued to monitor the progress of referred proceedings still ongoing in the region.

II. Measures taken to implement the Completion Strategy

A. Tribunal-wide measures

1. e-Court and e-Filing

9. Since 2005, e-Court has been the mainstay of evidence presentation in the courtrooms of the Tribunal. It has replaced the cumbersome and slow presentation of exhibits in hard-copy form. The e-Court system is particularly efficient in cases where voluminous documents are used on a daily basis. As the cases at the Tribunal are document-intensive, the e-Court system allows the parties in a trial to quickly access materials for case presentation and thereby save considerable time in locating and presenting a document in court. In cases where multiple accused are being tried in a single case, it helps in quickly locating a document tendered by a particular accused during a hearing. Speedy dissemination of voluminous documentary evidence is the cornerstone of the system, but other advantages of e-Court include the ability of the parties to annotate their transcripts for future use; the ability to annotate exhibits during a witness's testimony; quick access to information using the advanced searches and reports function; and remote access to trial records.

10. With the implementation of the Tribunal's e-Filing system, the process by which documents are filed has been significantly improved. Whereas a hard-copy filing in the past could take up to 24 hours to distribute to all the parties in a trial or appeal, the electronic filing of a document and its distribution to the parties normally takes about an hour or less, due to the fully automated system. The use of e-signatures has also greatly facilitated and expedited the process of handling and distributing case filings.

2. Amendments to the Rules of Procedure and Evidence

11. In the last three years alone, the Tribunal has amended several of its Rules of Procedure and Evidence and adopted new Rules in order to refine its proceedings and make them even more effective.

12. In March 2008, the Tribunal amended Rule 67 in order to require the Defence to provide to the Prosecution, before the commencement of the Defence case, copies of statements, if any, of all witnesses whom the Defence intends to call to testify at trial.

13. In November 2008, the Tribunal adopted a new Rule — Rule 45 *ter* — in order to expressly provide a Chamber with the authority to instruct the Registrar to assign counsel to represent the interests of the accused when it is in the interests of justice.

14. In July 2009, the Tribunal amended Rule 62(A), Rule 66(A)(i), and Rule 72(A) in order to reduce time limits in contempt cases for entering a plea, for disclosure of material supporting an indictment and for the filing of preliminary motions.

15. In December 2009 — following the results of a working group established to assess the procedural and substantive aspects of contempt proceedings and to recommend methods of expediting their adjudication — the Tribunal adopted a new Rule — Rule 92 *quinquies* — in order to regulate the admission of evidence in a trial where witnesses have been made unavailable due to intimidation and bribery. This procedural innovation enables core proceedings to go forward even where there are attempts to interfere with the administration of justice.

16. In December 2010, the Tribunal amended Rule 94(B) in order to clarify the law pertaining to the judicial notice of adjudicated facts, in order to ensure efficient use of the Rules by the parties to the proceedings.

3. Case management techniques

17. In November 2009, the Working Group on Speeding-Up Trials embarked upon a third review of the Tribunal's practices in order to assess whether further improvements could be implemented into the work of the Chambers. The Working Group submitted its report on 21 May 2010 and recommended a number of reforms to the Tribunal's procedures. On 7 June 2010, the Judges adopted these recommendations and decided to integrate them into ongoing proceedings.

18. One of these adopted recommendations was for Trial Chambers to require parties to have a proper and consistent routine of notice and dissemination of written statements that are tendered in lieu of oral testimony. Another was for Trial Chambers to require parties to submit motions for the admission of evidence in as efficient a manner as possible, to encourage agreement between the parties on uncontested facts, and to facilitate the taking of judicial notice of adjudicated facts. Other adopted recommendations included Trial Chambers dealing with as many procedural and administrative matters as possible outside of the courtroom; making greater use of oral rulings in lieu of written decisions; prioritizing translations in order of importance; and avoiding superfluous translations. Finally, at the time when less than six trials are heard simultaneously, Trial Chambers will increase their sitting times in the remaining cases, as more courtroom time becomes available.

B. Case-related measures

19. Despite the many challenges faced during the reporting period, the Trial and Appeals Chambers continued to take all measures within their power to expedite their proceedings, while still fully respecting the rights of the accused. An appreciation of the steps taken by the Chambers to guarantee that proceedings are conducted in a fair and expeditious manner can be gained through an understanding of the context of each case. Accordingly, the following contains a brief summary of the cases currently before the Tribunal, as well as the solutions adopted to meet the specific challenges they have raised.

1. Pretrial proceedings

20. The case of *Prosecutor v. Ramush Haradinaj et al.* is at the pretrial phase after the Appeals Chamber ordered a partial retrial on 21 July 2010. On 6 December 2010, the Prosecution filed its pretrial brief and lists of witnesses and exhibits, indicating that it intends to call 57 witnesses. However, it became apparent from submissions by the accused on 23 November 2010 that the parties took different positions as to the scope of the indictment. Consequently, on 14 December 2010, the Trial Chamber postponed the date by which the Defence pretrial briefs were to be filed. The decisions of the Trial Chamber on 14 January 2011 and on 8 February 2011 on the scope of the indictment are the subject of pending interlocutory appeals. The estimate of the date on which the partial retrial will begin has been revised to June 2011. Based upon the number of Prosecution witnesses and the trial statistics in the original *Haradinaj et al.* trial, and considering that the retrial bench would not be able to sit full time due to the fact that two of its members, Judge Hall and Judge Delvoie, are also sitting in another trial, it is estimated that the retrial will last approximately 13 months, from opening statements to delivery of the judgement.

2. Trial proceedings

21. Since the last reporting period, some of the estimates for the trial proceedings have had to be slightly revised. Prior to the last report, the President called upon the Judges and staff to give as realistic estimates as possible for the completion of the trial proceedings, and this is partly responsible for the lack of revision of the estimates from the last report. Where estimates have had to be revised, the reasons therefor are either out of the control of the Tribunal or entirely reasonable, given the size and complexity of the trials, complications due to the choice of accused persons to represent themselves and persistent staffing problems.

22. The staffing crisis at the Tribunal affects every single trial, even when it is not specifically mentioned below. When staff attrition has had a particularly deleterious effect upon a trial proceeding, it is highlighted in this section of the report. It is a problem that is inherently systemic in all the work of the Tribunal. The situation is getting worse and worse, and it is a regular feature of the President's work to field direct requests from the Judges for their cases to be adequately staffed so that they can meet projected timelines. It is not usually the case that the President is directly involved in staffing matters, but the fact that this has become routine is evidence of the dire straights in which the Tribunal finds itself.

23. In the case of *Prosecutor v. Vlastimir Dorđević*, the accused was charged with crimes committed in 14 municipalities in Kosovo between January and June 1999, including the deportation of over 800,000 people and mass killings of over 900 Kosovo Albanians. The Trial Chamber's estimate that judgement would be delivered in February 2011 has been met. On 23 February 2011, the Chamber found the accused guilty of five counts of crimes against humanity and violations of the laws or customs of war for having committed through his participation in a joint criminal enterprise and having aided and abetted the murder of 724 Kosovo Albanians (specifically named in the schedule to the judgement), the deportation and forcible transfer of hundreds of thousands of Kosovo Albanians from more than 60 locations listed in the judgement, and for the destruction of Kosovo Albanian religious and cultural property. The Chamber sentenced the accused to 27 years of imprisonment.

24. The mandate of Judge Parker, the Presiding Judge in this trial, expired with the delivery of the judgement, and Judge Parker left the Tribunal on 25 February 2011. He was not replaced in accordance with the overall downsizing of the Tribunal in line with the Completion Strategy. The Tribunal would like to commend the diligent and assiduous efforts of Judge Parker, who rendered a record number of trial judgements during his service to the Tribunal and who conducted two inquiries.

25. The case of *Prosecutor v. Ante Gotovina et al.* — with three accused — involves nine counts of crimes against humanity and violations of the laws or customs of war allegedly committed against the Serb population in 14 municipalities in the southern portion of the Krajina region in the Republic of Croatia in 1995. This is the first trial before the Tribunal involving crimes allegedly committed against the Serb population in Croatia. The judgement, which was tentatively anticipated to be rendered in March, was delivered on 15 April 2011. Ante Gotovina, who held the rank of Colonel General in the Croatian army and was the Commander of the Split Military District, and Mladen Markač, who held the position of Assistant Minister of Interior in charge of Special Police matters, were convicted of persecution, deportation, plunder, wanton destruction, two counts of murder, inhumane acts and cruel treatment. They were sentenced to 24 and 18 years of imprisonment, respectively. Ivan Čermak, who was the Commander of the Knin Garrison, was acquitted of all charges.

26. In the trial of *Prosecutor v. Momčilo Perišić*, the accused is charged with 13 counts in relation to crimes against humanity and violations of the laws or customs of war allegedly committed in Sarajevo, Zagreb, and Srebrenica. Since the last reporting period, the estimate for the completion of this trial has been revised by two months.

27. The Defence continued to encounter difficulties in scheduling its last witnesses. Despite frequent interventions and the issuance of subpoenas by the Chamber, adjournments in the proceedings were unavoidable. As set out in the previous report as a risk, the reopening of the Prosecution case to allow for the admission of material from the Mladić diaries affected the closing of the evidentiary phase of the trial. Moreover, the Judges have had to divide their attention between this trial and others, as one Judge is assigned to the *Stanišić and Simatović* case, and the Presiding Judge is assigned to preside over the partial retrial of *Haradinaj et al.* Closing arguments of the parties were held in March 2011, and the judgement is anticipated to be delivered in August 2011.

28. In the case of *Prosecutor v. Jovica Stanišić* and *Franko Simatović*, the two accused are charged with four counts of crimes against humanity and one count of war crimes. The estimate of this case remains the same as in the previous report, and this is a remarkable achievement in light of all the difficulties detailed below. This case has remained on track due to the careful and effective case management that has been applied to the case by the Trial Chamber.

29. The Prosecution case was closed on 5 April 2011, and the Rule 98*bis* decision was issued on 5 May 2011. The factors that were described in the previous reports as impacting the pace of the trial — the relatively new Simatović Defence team and the health of Stanišić — continue to affect the scheduling of this case. During the reporting period, the Chamber has increased its regular sitting time to three days per week. So far, it has not been possible to sit for more than three days per week due to the ill-health of Stanišić and the engagement of the Judges in other trials. Shorter

sitting weeks have created problems with witness scheduling, as it is more difficult to have witnesses on standby in The Hague. The Chamber has actively tried to accommodate the witnesses and has, upon short notice, scheduled additional sittings in order to facilitate the witnesses' early return. The Chamber and its legal support staff have conducted this case in parallel with other cases (Presiding Judge Orie and Judge Gwaunza on *Gotovina et al.* and Judge Picard on *Perišić*) by means of rigorous management of the court calendar. The Chamber decided to grant the Defence until 15 June 2011 to prepare their cases, and this decision is currently under appeal. The judgement is scheduled to be issued in July 2012, although due to the factors described above — in particular the health of Stanišić and the unknown length of the Defence cases — this assessment is tentative.

30. The case of *Prosecutor v. Jadranko Prlić et al.* — with six accused — is an exceptionally complicated trial, involving 26 counts of war crimes and crimes against humanity, related to approximately 70 crime sites, allegedly committed by Bosnian Croats against Bosnian Muslims in Bosnia and Herzegovina from 18 November 1991 to about April 1994. The estimated date for the delivery of the judgement has been revised by four months. The complexity of the case and the high staff turnover and understaffing are the factors contributing to this revised estimate.

31. In addition to the hearings in court, the tremendous amount of out-of-court work generated by this case is borne out by the court record: since the start of the trial, the Chamber has dealt with more than 550 written motions and to date has issued 733 written decisions. Some of these motions have been exceedingly complicated, including requests for the admission of 735 adjudicated facts and the admission of more than 5,000 exhibits from the bar table. The Chamber has issued several written and oral decisions on oral motions for the admission of evidence through 208 *viva voce* witnesses. The Trial Chamber has analysed 236 written statements for admission pursuant to Rule 92 *bis*. To date, 9,875 exhibits have been admitted into evidence. This trial has generated in excess of 52,000 transcript pages.

32. In May 2010, the Trial Chamber declared the Defence stage of the proceedings to be closed. In July 2010, Prlić filed a motion to disqualify one of the Judges from the trial bench and a request to adjourn the proceedings until the motion was decided. In September 2010, the Trial Chamber temporarily stayed the proceedings. In October 2010, the President dismissed the motion for disqualification, and the Trial Chamber resumed the proceedings and immediately issued several decisions that had been pending. A number of complex motions have also affected the pace of the trial: Praljak moved the Trial Chamber to admit more than 150 written witness statements in lieu of oral testimony. In summer 2010, the Prosecution filed a motion to reopen its case due to the discovery of the Mladić notebooks; this motion was granted, and four defence teams, in response, filed motions to reopen their own cases. The Chamber partially granted one of these motions.

33. Upon completion of the presentation of the Defence cases, the Chamber dealt with a total of 12 motions requesting extensions of time for final briefs. The Chamber partially rejected most of those requests. All final briefs were received on 7 January 2011, and the Chamber heard closing arguments as of 7 February 2011. During oral arguments, some of the parties raised new legal issues that necessitated a reply by the opposing parties. Closing arguments were concluded on 2 March 2011, after which the Trial Chamber declared the hearings closed.

34. Presiding Judge Antonetti is also serving as the Presiding Judge in the *Šešelj* trial, and Judge Mindua sits on the bench in *Tolimir*. Moreover, a high turnover of the staff has had an impact upon the work of the Chamber. Since the beginning of the trial, there have been four different P-5 Senior Legal Officers assigned to the case in succession, as well as two different P-4 Legal Officers, and three different P-3 Legal Officers. Presently, the legal support team has seven P-2 Associate Legal Officers, one of whom will be transferred to another trial team by the end of April 2011 and will not be replaced. The P-4 Legal Officer is currently acting P-5 for both the *Prlić et al.* and *Šešelj* trials. As a consequence, the *Prlić et al.* trial has no P-4 Legal Officer. One of the P-2 Associate Legal Officers was acting at the P-3 level; however, in March 2011, the acting P-3 returned to her P-2 functions, and no replacement was provided, which leaves the team with only one P-3. The assignment of the Judges to other trials and the constant staff attrition in this trial impacts upon the time needed for the Chamber to prepare the judgement. Under these circumstances and in light of the complexity of the case, it is anticipated that the judgement will be delivered in June 2012.

35. The *Prlić et al.* trial judgement is likely to be the longest ever issued by the Tribunal, and yet this trial continues to be plagued by staffing problems. A further revision for the rendering of the judgement may therefore be inevitable, due to the fact that the Tribunal's staffing situation continues to worsen.

36. In the case of *Prosecutor v. Vojislav Šešelj*, the accused, who is defending himself, is charged with nine counts of crimes against humanity and violations of the laws or customs of war allegedly committed in the territory of Croatia, in large parts of Bosnia and Herzegovina, and in Vojvodina, Serbia, from August 1991 until September 1993. The estimated date for the delivery of the judgement has been revised by three months. The factors justifying this revision include the inordinately heavy motion practice and staff attrition.

37. In order to deal with procedural issues related to pending motions, the financing of Šešelj's defence, and his medical condition, the Trial Chamber held two administrative hearings on 1 December 2010 and on 18 January 2011, which enabled the Chamber to fashion with the parties workable solutions to some of these difficulties. Despite the many challenges faced during the reporting period, the Trial Chamber managed to hold the crucial Rule 98 *bis* hearing from 7 to 9 March 2011, and issued the Rule 98 *bis* decision on 4 May 2011, denying — by majority, Judge Antonetti partially dissenting — the motion for acquittal of Šešelj and concluding that a reasonable Chamber could convict him for, in particular, having instigated the crimes alleged under each count of the indictment, in particular through his hate speeches. The rendering of the Rule 98 *bis* decision has thereby allowed for the beginning of the Defence case. The Trial Chamber has admitted in writing a sizable amount of evidence of otherwise unavailable witnesses in order to expedite the proceedings. Since the trial began in November 2007, the Trial Chamber has issued approximately 420 written decisions and approximately 100 oral decisions — with 49 written decisions and 11 oral decisions between 15 November 2010 and 16 March 2011.

38. It is extremely difficult for the Trial Chamber, at this stage, to indicate when it will be able to finish the case, because it depends upon the Trial Chamber's decision upon the oral motion made by Šešelj at the end of the Rule 98 *bis* decision. Šešelj had previously indicated that he needed two years to prepare for his case, unless he

was provided with funds for his defence. Aware of the potential impact of this issue upon the outcome of the trial, the Trial Chamber issued a decision on the 29 October 2010 on the financing of Šešelj's defence, ordering the Registry to finance Šešelj's Defence team to the level of 50 per cent of the amount allocated to an accused found totally indigent. On 19 November 2010, the Registry filed an appeal against this decision, which was dismissed by the Appeals Chamber. So far, it is difficult to know whether Šešelj will raise a defence, since he has set five conditions on doing so, including the retroactivity of the financing of his defence, contrary to the decision issued by the Trial Chamber on 29 October 2010. In order to assess how Šešelj's health may impact the presentation of the Defence case in such a complicated trial, the Trial Chamber has ordered the Registry to appoint a panel of three internationally renowned experts to examine Šešelj's medical condition. Šešelj refused to be examined by the English cardiologist, so the Trial Chamber will receive only a partial report from the two other experts.

39. It must also be highlighted that the team of lawyers assisting the Trial Chamber on the *Šešelj* case is understaffed. At the beginning of the case, the team was composed of seven staff members; owing to significant turnover in the staff working on the case, the team is currently composed of only three staff members and one fellow. This adversely impacts upon the work of the Trial Chamber as a whole, in particular on the rate of determining and disposing of motions and of analysing evidence. This case is also impacted by the fact that the Trial Chamber is working in three languages — Bosnian/Croatian/Serbian, English and French. The estimate for the delivery of the judgement is September 2012, but this can only be considered tentative.

40. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the accused are charged with 10 counts of crimes against humanity and violations of the laws or customs of war for crimes allegedly committed in concert with other members of a joint criminal enterprise against Bosnian Muslims and Bosnian Croats in Bosnia and Herzegovina between 1 April and 31 December 1992. The estimate of this case remains the same as in the previous report. This is a remarkable achievement when one considers all the challenges that the Trial Chamber has had to meet — and overcome — in order to keep this trial on schedule.

41. The geographical scope of the indictment in this case is wide-ranging, involving a similar number of municipalities to the *Karadžić* trial. The Prosecution case closed on 1 February 2011, having commenced on 14 September 2009. In that time, the Trial Chamber heard 125 witnesses over a period of 238 sitting days. The evidence of a further 39 witnesses was admitted in written form. These figures include the additional 44 witnesses for whom additional time had to be granted; 21 of those witnesses testified in person, and the testimony of 12 was admitted in written form. The remaining 11 witnesses were withdrawn as a result of successful negotiations between the parties as to the agreed factual basis, which led to a saving of court time and resources. The Prosecution had been granted a total time for presentation of its case-in-chief of 295 hours and has utilized a total of 287 hours, plus a further 56 hours for re-examination. The Defence cross-examination took 295 hours, with a further 28 hours of questions from the bench. All parties raised multiple and complex procedural issues during the Prosecution case, and these matters occupied the remaining 164 hours of court time. In all, the Chamber issued a total of 95 written and 74 oral decisions during the Prosecution case, requiring

considerable effort in view of the continued low level of staffing for a case of this size and complexity.

42. Neither Defence team elected to raise a motion for acquittal pursuant to Rule 98 *bis*, thus enabling the Chamber to schedule the start of the Defence case with only a brief adjournment to allow for final preparation by the respective Defence teams. The Defence witness lists and related filings were filed on 28 March 2011, and the pre-defence conference was held on 4 April 2011. Presentation of evidence for the Defence of Stanišić commenced on 11 April 2011. Based upon the most recent information available, the Trial Chamber currently projects that the presentation of evidence by the Defence of both accused can be completed by the end of 2011, with closing arguments early in 2012. The judgement is then expected to be delivered in September 2012.

43. As in the Prosecution phase of the trial, the Chamber expects to sit continuously five days per week, subject to the proviso that all three Judges are assigned to other trials to be heard simultaneously (one to *Šešelj* and two to the *Haradinaj et al.* partial retrial), in addition to a number of other ongoing contempt and miscellaneous matters at both the appeal and trial stages. The trial schedule will need to be adjusted to accommodate these other matters, which may have a significant impact upon the projected completion date.

44. In the case of *Prosecutor v. Radovan Karadžić*, the accused — the former President of Republika Srpska — is charged with 11 counts of genocide, crimes against humanity, and violations of the laws or customs of war in Sarajevo, Srebrenica, and 20 municipalities throughout Bosnia and Herzegovina. The estimate for the completion of trial has been revised by approximately six months.

45. The extensive use of Rule 92 *ter* as a mode of presenting the Prosecution's evidence continues to affect the speed of trial. Although Rule 92 *ter* constitutes an in-court time-saving measure by which a written statement is submitted in place of *viva voce* testimony, the Chamber must analyse the written evidence, which in some cases is hundreds of pages, a circumstance that may add to the time necessary for the preparation of the judgement. In addition, due to the extremely voluminous nature of the written evidence, it is also often necessary for Karadžić to be given significantly more time for the cross-examination of each witness than the time used by the Prosecution in its examination-in-chief. During the reporting period, the Chamber has taken a firmer stance in ensuring that time-limits for cross-examination set by the Chamber are adhered to. This firmer stance has resulted in an overall reduction of the time used by Karadžić for cross-examination of some witnesses. Furthermore, the case continues to experience a voluminous quantity of material disclosed by the Prosecution, resulting in the Trial Chamber having to suspend the trial twice in order to allow Karadžić time to analyse the material. With regard to the latest suspension, although Karadžić asked for a three-month adjournment, the Chamber considered that, in light of the volume of Rule 68 material disclosed, a period of six weeks was more appropriate. This period was then extended by two weeks to allow Karadžić to review a subsequent large disclosure batch by the Prosecution.

46. Like other ongoing trials and in light of the breadth of the case, the legal team assigned to the *Karadžić* Chamber is understaffed and subject to a high turnover rate. This staffing shortage will continue to impact the time required to deal with the ongoing motions and practical issues arising during the course of the trial and to

conduct the necessary analysis of evidence. Since the start of the proceedings, the Trial Chamber has coped with a significant out-of-court workload, dealing with approximately 460 motions and issuing 357 written decisions. Already, more than 3,500 documents have been admitted into evidence, 68 witnesses called by the Prosecution have been heard, and judicial notice of approximately 2,300 adjudicated facts has been taken. The latest estimate for the completion of this trial is June 2014.

47. In the case of *Prosecutor v. Zdravko Tolimir*, the accused, who is defending himself, is charged with eight counts — including charges of genocide, murder, extermination, and forcible transfer — arising from events at over 20 crime sites. Since the last reporting period, the estimate for the completion of the trial has been revised by approximately five months.

48. Nevertheless, the trial continues to progress steadily, despite the commitments of Presiding Judge Flügge in *Đorđević* for part of the reporting period and Judge Mindua in *Prlić et al.* and despite the difficulties caused by the choice of Tolimir to represent himself. Following the issuance of the judgement in *Đorđević* in February 2011, Judge Flügge has been able to devote more time to this case. The revision in the expected length of the trial is based largely upon revised Prosecution estimates for the time required for completion of the evidence of its remaining witnesses. On 22 October 2010, the Prosecution sought a significantly longer time to conclude its case, namely until November 2011. However, the Chamber indicated its expectation that the Prosecution case should be completed by the summer adjournment of 2011 and outlined some measures to be taken with a view to ensuring that the remainder of the Prosecution case proceeds as expeditiously as possible. The Prosecution has provided the Chamber with a revised witness schedule for the remainder of the Prosecution case, which complies with the Chamber's instruction to complete its case before the summer adjournment. In a further attempt to satisfy the Chamber's instruction, the Prosecution recently filed a motion to convert some *viva voce* witnesses to Rule 92 *ter* witnesses so as to reduce the time for examination-in-chief. Additionally, the Prosecution has withdrawn some witnesses. In November 2010, the Chamber granted a Prosecution motion to add to its exhibit list the notebooks of Ratko Mladić and other relevant materials. In response to Tolimir's request for an adjournment of approximately six weeks in order for him to review these newly admitted documents, the Chamber granted him a three-week adjournment. Regarding the time estimate required for the preparation of the judgement, similar to other complex cases, a considerable amount of time will be required. Given the change in estimate of the Prosecution case and judgement drafting, it is now estimated that the case will be completed by the end of October 2012.

49. Notably, had Tolimir been transferred earlier to the custody of the Tribunal, he could have been tried with his co-accused in the *Popović et al.* trial. However, he is now being tried alone in a separate case.

50. Overall, it is to be commended that the Trial Chambers of the Tribunal have been able to adhere to the estimates given in the last Completion Strategy report or to minimize the adverse effects upon the trial estimates that have been occasioned by factors that are either beyond the Chambers' control or entirely reasonable in all the circumstances. And this is especially the case in light of the severe staffing crisis that has persistently plagued the Tribunal for years.

3. Contempt proceedings

51. The Tribunal's administration of justice continued to be disrupted by contempt allegations; however, the Tribunal is taking what measures it can to ensure that all contempt cases are concluded as quickly as possible and without disrupting the ongoing trial processes.

52. The case of *Prosecutor v. Shefqet Kabashi* is still pending the accused's arrest and transfer to The Hague.

53. In the case of *Prosecutor v. Vojislav Šešelj*, the accused is charged with contempt of the Tribunal for knowingly disclosing in one of his books the identifying information of 11 protected witnesses. The revised estimate for the completion of this contempt trial has been revised by approximately six months. A date for trial was set immediately after a specially appointed Chamber denied Šešelj's application for disqualification of two of the Judges on 19 November 2010. A pretrial conference was held on 22 February 2011, immediately after which the trial started. The amicus curiae Prosecutor's case was heard and closed on the same day. Šešelj moved for the adjournment of the start of his Defence case pending resolution by the Appeals Chamber of the financing of his defence. It is expected that the judgement will be delivered by the end of June 2011.

54. In the case of *Prosecutor v. Jelena Rasić*, the accused faces five counts of contempt of the Tribunal arising out of allegations of procuring false witness statements for use by the Defence in the *Lukić and Lukić* case. The initial appearance was held on 22 September 2010, and Rasić was granted provisional release on 12 November 2010. A status conference was held on 4 February 2011 at which the pretrial Judge announced the workplan for the case. Preparations for trial are under way, and current indications are that the Prosecution case will consist of 19 witnesses, the evidence of 11 of whom the Prosecution will seek to admit in written form only, with 8 to be heard in person, and with a time estimate of five to seven days in court. The Defence has already indicated that it intends to call four of its five witnesses in person and will require four to five hearing days to do so. Judgement is expected to follow shortly after the close of hearings.

55. Florence Hartmann has challenged her conviction for contempt of the Tribunal for disclosing information related to the *Slobodan Milošević* case in violation of orders of a Chamber. Hartmann's appeal is under active consideration of the Appeals Chamber, and a judgement will be rendered in due course.

4. Appeal proceedings

56. During the reporting period, one judgement on review was issued. Appeals from four trial judgements are currently pending before the Appeals Chamber.

57. The appeal schedule presented in this report to the Security Council has been significantly revised in light of a number of factors relevant to the pace of the Tribunal's appeal proceedings. First, the staffing crisis has led to revisions in the estimated times for the completion of all appeal proceedings. Second, a new, more empirical methodology has been applied to appeal projections; although this approach has led to the substantially revised estimates in this report, the long-term aim of the revisions is to present to the Security Council timelines that it is hoped will largely remain the same until the end of the work of the Tribunal — subject to revisions due to the staffing crisis. Third, a number of challenges and solutions

thereto are detailed below, including the limitation of amendments to grounds of appeal, the organization of judgement drafting and the prioritization of work.

Staffing

58. The general staffing problems that were prophetically heralded in previous reports have had a serious impact upon the Tribunal's appeals. For some time now, staff have been diverted to the Trial Chambers, in an effort to complete the Tribunal's trial proceedings. Such an approach to the allocation of the Tribunal's finite resources is entirely reasonable in light of the pressure to complete all trials, but it has necessarily resulted in the Appeals Chamber being extremely understaffed. Exacerbating the problem has been the fact that experienced staff of the Appeals Chamber have been leaving the Tribunal for more secure employment elsewhere. Currently, there are three pending appeals from judgement and one in the early notice of appeal stage, yet these cases are only staffed to adequately support two appeals. As more trials finish, staff working at the trial level will be redeployed to the Appeals Chamber; however, in the meantime, the shortage of staff in the Appeals Chamber has adversely impacted upon the pace of appeals. The situation may worsen due to the fact that it is anticipated that the Appeals Chamber will continue to suffer from staffing problems for the remainder of 2011.

Estimates

59. A brief word on the art of estimating the length of appeal proceedings is in order. The estimates for each appeal proceeding are not fixed deadlines, but rather nothing more than estimates. Nevertheless, the Tribunal has redoubled its efforts to bring more rigour to the generation of estimates for its appeal proceedings:

(a) *Effect of revised projections for trials.* The Trial Chambers have periodically revised their projections for the completion of ongoing trials. When a trial estimate is revised, it has a knock-on effect upon the subsequent appeal proceeding. Moreover, one of the main reasons why trial estimates are revised is because of the size and complexity of the trial, which will also lead to a concomitant revision of the appeal proceeding;

(b) *Empirical data from completed and ongoing appeals.* As more appeals are completed, more data becomes available. For example, with the appeals judgment in *Kvočka et al.* and the drafting of the preparatory document in *Šainović et al.*, the Appeals Chamber now has a better understanding of how long multi-accused appeal proceedings are likely to take. This has allowed for the calculation of more realistic average times for appeals. With more information to work with, the revised projections use empirical data, accumulated since 2004, to create an estimated average length of appeal proceedings according to the number of appellants, which is then increased or decreased depending upon the specific characteristics of the case and the implementation of efficiency measures;

(c) *Size and complexity of cases.* It is important to understand the overall context in which appeals are heard at the Tribunal. The Tribunal's work does not consist of single murder trials. Rather, the cases before the Tribunal involve entire armed conflicts, over a huge range of territory, often over a significant period of time, and the most senior political and military leaders. A normal trial at the Tribunal is equivalent to hundreds of domestic murder trials, all combined into a single case. A trial judgement therefore contains hundred of findings of fact and law,

and an appellant is entitled to challenge each and every one of these findings. It is therefore an inherently difficult task to estimate with precision when an appeal can be completed, due to the nature of the cases themselves.

Efficiency measures

60. The Appeals Chamber has adopted a number of measures to ensure the expeditious completion of its work:

(a) *Limitation of amendment of grounds of appeal*. The amount of material to be translated can affect the appeal process. Although the parties may be required to file their appellate briefs before the Bosnian/Croatian/Serbian translation is finalized, motions to amend the grounds of appeal once the translation has been received are permitted. The Appeals Chamber must address these motions at the same time as it is dealing with the substantive appeal. In order to cope with this situation, the Appeals Chamber often seeks to limit requested amendments to questions of fact, on the basis that counsel could have identified all potential legal errors from review of judgement in the original language. However, this is a discretionary matter for a Chamber to determine, in light of the unique circumstances of each case and the interests of justice;

(b) *Organization of drafting*. One of the methodologies that has been developed to address the difficulties inherent in the kind of appeals lodged at the Tribunal is the organization of the drafting in multi-appellant cases in the most efficient way possible, such as dealing with multiple grounds of appeal together or organizing the judgment according to thematic areas;

(c) *Prioritization*. It is important to understand that the Judges and staff of the Appeals Chamber must deal with an inordinate number of interlocutory appeals, pre-appeal motions, and contempt cases arising during this intensive period of judicial activity. These matters require resources that could otherwise be used for the drafting of substantive judgements. The stark reality is that often these matters must be prioritized over the drafting of judgments because they affect ongoing trials or are necessary for the preparation of a case for appeal.

61. In the *Prosecutor v. Veselin Šljivančanin* case, the Appeals Chamber granted Šljivančanin's request for review of the *Mrkšić and Šljivančanin* appeal judgement on 14 July 2010 and held a review hearing on 12 October 2010. In its review judgement, issued on 8 December 2010, the Appeals Chamber vacated Šljivančanin's conviction for aiding and abetting murder, quashed his sentence of 17 years of imprisonment and imposed a new sentence of 10 years of imprisonment in order to reflect the reversal of his murder conviction and the gravity of the remaining torture conviction.

62. In the *Prosecutor v. Milan Lukić and Sredoje Lukić* case, the projected time frame for delivery of the appeal judgement has been revised by five months from the last reporting period. The revision is largely attributable to two factors. First, ongoing disclosure of material to the Defence appellants led to several motions for admission of additional evidence. Second, the Chamber was seized of a comprehensive request from another case for access to confidential information material in the *Lukić and Lukić* case. In addition, the loan of the assigned Senior Legal Officer to assist a sister tribunal for six months impacted the pace of the

appeal. With the temporary assistance of two staff members supporting the *Šainović et al.* case, it is estimated that the judgement will be rendered in October 2011.

63. In the *Prosecutor v. Nikola Šainović et al.* case, the projected time frame for delivery of the appeal judgement has been revised by nine months from the last reporting period, as lessons learned in this first mega-appeal have been implemented.

64. All five persons convicted at trial have filed an appeal, and the Prosecution has likewise appealed. This is therefore an unusually large appeal proceeding. Due to the sheer size of an appeal of a 1,743-page trial judgement, a number of time extensions were granted in order to safeguard the fairness of the proceedings. Although the primary phase of appellate briefing was completed in February 2010, supplementary submissions continue to be filed as a result of three factors: admission of additional evidence on appeal; acceptance of amicus curiae briefs on appeal; and amendments to the grounds of appeal. With respect to the last factor, translation of the trial judgement into Bosnian/Croatian/Serbian — originally projected for completion in April 2010 — was only finalized in September 2010. Thereafter, the Defence appellants were permitted to review the trial judgement in Bosnian/Croatian/Serbian and seek to amend their existing grounds of appeal. At the present time, three of the Defence appellants have indicated that they will move to amend their respective grounds of appeal. The result is that oral arguments of the parties cannot be heard by the Appeals Chamber until such motions are filed and decided, and any consequent supplementary briefing is completed.

65. Serious difficulties have been encountered in relation to continuous changes in the composition of the legal support staff in the *Šainović et al.* case due to attrition and use of short-term temporary contracts. Five out of the seven current team members joined the case in the second half of 2010 or beginning of 2011. The time needed for replacement staff to become familiar with the case specifics and working methodology of the team has contributed to a fair degree to the extension of the initial estimate for case completion. Likewise, the recent temporary assignment of two staff members to assist the *Lukić and Lukić* legal support staff has impacted the pace of the appeal. Renewed managerial focus on the larger issue of inadequate staffing in the Appeals Chamber is expected to bring about a state of equilibrium in the *Šainović et al.* legal support. This will be crucial if the case is to adhere to a schedule calling for a February 2012 hearing and February 2013 delivery of the judgement.

66. In the *Prosecutor v. Vujadin Popović et al.* case, five of the seven persons convicted at trial have filed an appeal, and the Prosecution has also appealed. It should be noted that the *Šainović et al.* and *Popović et al.* trials were the first two of three mega-trials created by decisions of the Joinder Bench in 2006, a special panel formed to consider joining together similar indictments as a means of reducing the overall number of separate trials in accordance with the Completion Strategy. Owing to the size and complexity of the *Popović et al.* case, an extension was granted for the briefing schedule in order to safeguard the fairness of the proceedings. The briefing was completed in early May 2011. The proceedings involving one additional person convicted at trial were suspended for health reasons and remain the subject of continued forensic medical evaluation. The seventh person convicted at trial waived his right to appeal the trial judgement. The appeal judgement is expected to be delivered in December 2013.

67. This projected estimate may have to be revised in the future due to the fact that this mega-appeal is only staffed by two full-time legal officers. The legal support team for this massive appeal will only be adequately staffed in January 2012, when legal officers are redeployed from the Trial Chambers to the Appeals Chamber. This means that the team will not be fully staffed until 19 months after the delivery of the trial judgement and 8 months after the briefing has been completed.

68. In the *Prosecutor v. Vlastimir Đorđević* case, the Appeals Chamber on 16 March 2011 granted a motion for extension of time to file any notice of appeal against the trial judgement (rendered 23 February 2011) with a deadline of 24 May 2011. The 975-page trial judgement, an unprecedented length for a single-accused case, contains many complex issues that were involved in concluding the trial process: the Trial Chamber heard from 248 witnesses and considered 2,518 exhibits in finding Đorđević criminally responsible on the basis of aiding and abetting and participating in a complex joint criminal enterprise for numerous crimes committed in 60 separate geographical locations. Recalculation in light of the trial judgement places the best estimate for delivery of the judgement in October 2013.

69. During the reporting period, the Appeals Chamber of the International Criminal Tribunal for Rwanda delivered two judgements, in the *Renzaho* and *Muvunyi* cases. It also heard appeals from judgement in the *Bagosora and Nsengiyumva*, *Setako*, and *Munyakazi* cases. The Appeals Chamber of the International Criminal Tribunal for Rwanda expects to deliver five more judgements by the end of this year.

70. In conclusion, although the Appeals Chamber is beset by many different challenges, it is coping as best it can. However, it must be acknowledged that the staffing crisis has hit the Appeals Chamber particularly hard, and the worsening of the staffing situation will continue to adversely affect the pace of appeals. Appeals of such magnitude have never been attempted by any international criminal tribunal thus far, and the Appeals Chamber's resolution of these significant appeals will be not only a benchmark in the work of the Tribunal, but also a valuable model for the future progress of international criminal justice.

5. Access decisions

71. The bench constituted to decide requests for access to confidential information for use in national proceedings under Rule 75 (H) continued to function in an efficient manner, rendering 18 decisions during the reporting period.

III. Retention of staff

72. As the Tribunal nears the end of its mandate, highly qualified and essential staff continue to leave the Tribunal at alarming rates for more secure employment elsewhere. Moreover, the Tribunal is in a downsizing phase at a time when it is at its highest level of productivity, with only a negligible increase in its staffing levels since the biennium 2006-2007. To meet this challenge, the staff of the Appeals Chamber have been reassigned to assist the Trial Chambers, and yet many of those trial teams still remain understaffed. As a consequence, the Appeals Chamber is drastically understaffed and will continue to be so until trials are completed and staff become available to be redeployed to appeals, which will not begin to take effect until mid- to late 2012, when five trials are expected to be completed. Most of

the staff finishing trials in 2011 will be needed to support the other trials which remain understaffed. The Tribunal needs the assistance of the Member States to stem this tide of departures. The loss of the Tribunal's experienced staff has significantly impacted proceedings, placed an onerous burden upon the Tribunal's remaining staff and will place a much heavier financial burden on the international community in the long run.

73. It cannot be emphasized enough how much time and resources the Tribunal puts into juggling its staff in order to quell crises in the trials and appeals that result from staff leaving the institution. On a regular basis, multiple actors at all levels — including the principals of the Tribunal — must meet on an emergency basis to deal with these problems. At a time when the Tribunal should be devoting all of its attention to completing its trials and appeals, it is instead spending hours and days analysing staffing charts and consulting where staff can be reassigned so that the proceedings can go forward in the best way possible. It is a nightmarish quagmire that is getting worse and worse each reporting period.

74. The Security Council responded to the pleas of the Tribunal for assistance by adopting resolution 1931 (2010) in June 2010, in which the Council noted the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address this issue as the Tribunal approaches the completion of its work. In December 2010, the Security Council adopted resolution 1954 (2010), in which it reiterated the importance of the Tribunal being adequately staffed to complete its work expeditiously and called upon the Secretariat and other relevant United Nations bodies to continue to work with the Registrar of the Tribunal in order to find practicable solutions to address this issue as the Tribunal approaches the completion of its work. But neither has yielded any significant result.

75. In the meantime, the Tribunal is still appealing for action to be taken, as it continues to lose its highly experienced and essential staff and as the expeditiousness of proceedings continue to suffer. The Tribunal implores the international community to devise incentives encouraging staff to remain with the Tribunal until they are no longer needed.

76. It is unfortunate to have to report again that the Tribunal's requests for its staff to be converted to permanent appointments have not been approved. Following a recommendation in June 2010 from the Staff Management Coordination Committee — a body comprised of the Office of Human Resources Management, Staff Unions and United Nations Administrators — that the Tribunal's eligible staff be considered for conversion to permanent appointments on a priority basis, there were consultations in October 2010 with the Office of Human Resources Management. I note that the recommendation of the Staff Management Coordination Committee was approved by the Deputy Secretary-General on behalf of the Secretary-General on 31 August 2010. Regrettably, the Tribunal has been informed that its list of recommendations for which of its staff members should be considered for conversion to permanent contracts had been sent to a central review body because the Office of Human Resources Management did not agree with any of the Tribunal's recommendations. The Tribunal has been further informed that this review will not be undertaken as a matter of priority, but rather could take a significant amount of time.

77. Over the past year, the Office of Human Resources Management has worked with the Tribunal to explore various, technical retention mechanisms. The Tribunal looks forward to continuing to engage with the Office of Human Resources Management to devise innovative ways to assist staff, both in remaining with the Tribunal until they are no longer needed and in reintegrating into the job market.

78. One specific measure bears mentioning in this report. Downsized General Services staff who are legally eligible to work at various offices away from Headquarters are finding themselves precluded from employment by the requirement that they be resident in or around the duty station. Research has revealed that these restrictions, at least in the European context, are based simply in local practice and are not based on host State agreements or other legislative instruments. Removing this barrier to free movement of qualified staff would be mutually beneficial to all parties because it would give an opportunity for long-serving and qualified Tribunal staff to continue to serve the Organization and allow the Organization itself to benefit from their developed skills and experience. Moreover, giving qualified staff the confidence that they have opportunities elsewhere would remove some of the uncertainty that is a major factor leading to crippling staff attrition. The Office of Human Resources Management and the Tribunal have made progress on this issue in recent months, and the Tribunal would like to thank the Office for its support in this matter. The Tribunal looks forward to a full resolution of this issue in the near future.

79. The Tribunal has been without its Head of Chambers for over a year now, owing to her loan to the Extraordinary Chambers in the Courts of Cambodia. When the Tribunal initially agreed to the loan for a one-year period, it was done out of a sense of duty to a sister court and in the spirit of solidarity among United Nations judicial institutions working in the nascent area of international criminal justice. Moreover, after the expiration of this one-year period, it was in that same spirit that the Tribunal extended the loan of the Head of Chambers to the Extraordinary Chambers in the Courts of Cambodia for another month, in the confident expectation that she would be returned to the Tribunal immediately thereafter. Nonetheless, United Nations Headquarters has decided that the Tribunal's Head of Chambers should stay at the Extraordinary Chambers in the Courts of Cambodia until the end of the summer or fall of this year. While the Tribunal fully understands and appreciates the rationale behind the decision not to return the Head of Chambers to the Tribunal, it must be understood that that decision has grave consequences for the completion of the Tribunal's work. In a time when the Tribunal is trying to complete its trials and appeals, it has been without one of its most senior and pivotal officers and has had to compensate for this absence by employing a variety of ad hoc measures.

80. The Tribunal renews its plea for the international community to exercise foresight and assist the Tribunal with incentive measures to retain its staff and reduce the drain upon the institution's resources of constant staff recruitment. The longer this problem continues, the longer the work of the Tribunal will be extended, and the more money it will cost the international community in the long run.

IV. Referral of cases

81. Between 2005 and 2007, the Tribunal referred a total of eight cases, involving 13 accused of intermediate or lower rank, to national jurisdictions in accordance

with Security Council resolutions 1503 (2003) and 1534 (2004). This significantly reduced the overall workload of the Tribunal, making it possible to bring the cases of the most senior leaders to trial as early as possible. The referral of these cases to national jurisdictions also served to forge the Tribunal's relationship with national judiciaries in the former Yugoslavia and to strengthen the capacity of those jurisdictions in the prosecution and trial of violations of international humanitarian law.

82. The decisions upon referral of cases were made by a specially appointed Referral Bench, followed by appeals against the referral decisions in some cases. As a result, 10 accused were transferred to Bosnia and Herzegovina, 2 to Croatia, and 1 to Serbia. Requests for the referral of four accused were denied owing to the level of responsibility and the gravity of the crimes charged, requiring that these cases be heard before the Tribunal. Possibilities for referrals were maximized. Accordingly, no cases eligible for referral according to the seniority criteria set by the Security Council remain before the Tribunal.

83. Of the 13 persons transferred to national jurisdictions, proceedings against 12 have been concluded. Proceedings against Vladimir Kovačević are suspended until the outcome of a determination by the Basic Court Kraljevo in Serbia as to whether he is fit to stand trial. The Prosecution continues to monitor this case with the assistance of OSCE.

V. Outreach

84. The Outreach Programme intensified its efforts to bring the Tribunal closer to the communities in the former Yugoslavia. Field offices in Sarajevo, Belgrade, Zagreb and Priština held a number of events in local communities with young people, members of civil society and victims, and continued to cultivate contacts and provide accurate information to the local media. A more systematic approach to coordination with local civil society was established through monthly meetings with local non-governmental organizations (NGOs) in the region, which will ensure better information flow and more joint activities.

85. A wealth of other Outreach activities took place in the reporting period. Some 200 people from the region came to the Tribunal on study visits facilitated by Outreach, where they gained an in-depth look into the work of the Tribunal. Outreach partnered with local NGOs to conduct public opinion polls, organize debates on the Tribunal's legacy and bring young lawyers from the region to work as interns at the Tribunal. Outreach intensified contacts with young generations in Kosovo through programmes at 15 high schools, which were well received by both students and teachers. Outreach is currently working on extending this initiative to Croatia, Serbia and Bosnia and Herzegovina.

86. The Tribunal's state-of-the-art multilingual website remained one of the most valuable tools for Outreach, with 25 per cent of the visitors coming from the former Yugoslavia. The numbers of Twitter and YouTube subscribers in the former Yugoslavia have been rising steadily since the launch in October, making it one of the most successful communications projects of the Tribunal. The adoption of the new Outreach Action Plan for 2011-2012 was a significant development. It aims to bring about more proactive engagement with the public in the former Yugoslavia and maps out a systematic plan of activities to ensure the legacy of the Tribunal.

87. The Tribunal depends upon external funding in order to implement its Outreach Programme. A munificent contribution from the European Commission for the next biennium has ensured the continued existence of Outreach, and Finland has already generously supported youth education projects. The Tribunal also notes the generous support and cooperation of the OSCE mission to Serbia, but more funds are needed for specific projects envisaged in the Action Plan. Pursuant to General Assembly resolution 65/253, adopted on 24 December 2010, in which the Assembly reiterated the importance of carrying out an effective outreach programme and encouraged the Secretary-General to continue to explore measures to raise adequate voluntary funds, the Tribunal will be approaching Member States and other donors in the coming months for more support.

VI. Victims and witnesses

88. More than 6,900 witnesses and accompanying persons from all over the world have been called to appear before the Tribunal. Most witnesses come from diverse and remote locations within the former Yugoslavia. It should never be forgotten that, without the courage of these witnesses to step forward and give evidence, there would be no trials, and impunity would reign. Yet many witnesses have experienced a range of difficulties resulting from their decision to give evidence before the Tribunal, and this is in addition to the suffering and loss they have had to endure during the conflicts in the region. The Tribunal's resources are simply incapable of meeting their needs.

89. Victims of the conflict in the former Yugoslavia have a right to compensation under international law for the crimes committed against them. In previous reports, I have called upon the Security Council to establish a trust fund for victims of crimes falling within the Tribunal's jurisdiction, considering the legal bases for such compensation, including the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34 of 29 November 1985). The Tribunal has received a wellspring of positive responses to this initiative from the victims of the atrocities that were committed during the destructive dissolution of the former Yugoslavia during the 1990s. However, the Security Council has not responded to my call.

90. The Tribunal has been taking initiatives to have established some system for providing assistance and support to victims. The Tribunal calls upon the Security Council to take whatever steps are necessary to lend its support to those initiatives and stresses that these initiatives will not impose any obligations upon States to provide funding, but rather contemplate voluntary contributions. This would go some way to bringing the position of the Tribunal, which after all was the first international criminal judicial institution established by the United Nations, somewhat closer to the International Criminal Court, which has a trust fund for its victims. The Tribunal cannot, through the rendering of its judgements alone, bring peace and reconciliation to the region: other remedies should complement the criminal trials if lasting peace is to be achieved, and one such remedy should be adequate reparations to the victims for their suffering.

VII. Cooperation of States

91. It again must be reported that Ratko Mladić and Goran Hadžić continue to remain at large. It is noted, however, that there is general agreement among members of the Security Council that there will be no impunity regardless of when these remaining fugitives are apprehended. All States, especially those of the former Yugoslavia, are asked to intensify their efforts and to deliver these fugitives to the Tribunal as a matter of urgency.

VIII. Residual mechanism

92. On 21 May 2009, the Secretary-General published his report on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258). On 8 October 2009, the Secretary-General advised the Tribunal of the Security Council's endorsement of the recommendations and requested the Tribunal to comply with recommendation (m) in paragraph 259 and report, in detail, upon the Tribunal's implementation of the tasks identified under recommendation (l) in paragraph 259.

93. Since that time, the Security Council has adopted resolution 1966 (2010), in which it decided to establish the International Residual Mechanism for Criminal Tribunals with two branches, one for the International Criminal Tribunal for Rwanda and one for the International Tribunal for the Former Yugoslavia, which will commence functioning on 1 July 2012 and 1 July 2013, respectively.

94. Below is a summary of the work that is being undertaken to close the Tribunal and to ensure a smooth transition to the Residual Mechanism.

Transfer of functions to the Residual Mechanism

95. The Tribunal has established the International Tribunal for the Former Yugoslavia Residual Mechanism Steering Committee to identify areas for action in relation to the transfer of functions from the Tribunal to the Residual Mechanism, in coordination with the International Criminal Tribunal for Rwanda, the Office of Legal Affairs, the Archives and Records Management Section, and the Security Council's Informal Working Group on International Tribunals. A multitude of factors will be considered in developing a transfer schedule, including the resources and work processes required to exercise the transferred judicial and prosecutorial functions, the long-term institutional interests of the Residual Mechanism, budgetary implications and the need to ensure the continued provision of support and assistance to the Tribunals as they complete their mandates.

Downsizing

96. Despite the extension of some posts following the approval of the revised budgetary estimates at the end of last year, the downsizing process continues to be implemented, with 72 posts abolished to date. For the remainder of 2011, a further 98 posts will be abolished as follows: 24 on 30 April, 4 on 31 May, and 70 on 30 September 2011. As of 30 September 2011, the International Tribunal for the Former Yugoslavia will have abolished 170 posts.

97. Using the comparative review process, specific staff are selected for downsizing, with their contract validity dates synchronized to the post abolition dates. The Tribunal endeavours to limit actual staff departures by managing the abolition of posts in combination with natural attrition. Despite this, about half of the posts abolished have been encumbered at the time of abolition. The next comparative review exercise is anticipated to be performed in mid-2011 for post reductions in 2012. This exercise will make projections for contract extensions, so as to provide staff with the maximum contractual security that prudent financial planning will permit.

Budget for 2012–2013

98. In addition to the budget for the International Tribunal for the Former Yugoslavia for the biennium 2012–2013, the Tribunal is working with the International Criminal Tribunal for Rwanda in order to prepare a budget for the Residual Mechanism. The budgets of the Tribunals and the Residual Mechanism will be considered not in isolation, but rather as a coherent whole. An important part of this process is the identification of functions that will be transferred from the Tribunals to the Residual Mechanism and an analysis of which functions can be merged. A draft plan of action has been drawn up and is currently being implemented. Consultation with the International Criminal Tribunal for Rwanda has been continuous throughout this process.

Rules of procedure and evidence

99. In cooperation with the Office of Legal Affairs, the International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda have commenced a massive project to prepare draft rules of procedure and evidence to be adopted by the Residual Mechanism. Stage 1 of this project has commenced and will conclude with the creation of a single, first draft of the rules. Stage 2 will entail the Judges, Prosecutions, Registries and Associations of Defence Council of both Tribunals commenting upon the draft and these comments being harmonized into a second draft of the rules. Stage 3 will involve the Presidents of the Tribunals agreeing upon the draft and then remitting it to the Office of Legal Affairs.

100. The Tribunals are keeping the Office of Legal Affairs informed of their progress towards the preparation of a draft set of rules of procedure and evidence that will assist the Residual Mechanism in carrying out its functions in the most effective and fair manner.

Premises and host State agreement

101. Resolution 1966 (2010) identifies the seats of the branches of the Residual Mechanism as The Hague and Arusha. In order to facilitate a decision upon premises suitable for the Residual Mechanism and co-located archives, the Tribunals have been asked to provide detailed and costed options for permanent premises. The Tribunals have moreover been asked to assist the Office of Legal Affairs with the negotiation of appropriate headquarters agreements with the host States. Meetings between the Tribunal and the Government of the Netherlands have already been held, and possible locations for the Residual Mechanism are being identified.

Information security and access regime for Tribunal and Residual Mechanism records

102. The Joint Archives Strategy Working Group met on 8 and 9 February 2011 at the International Tribunal for the Former Yugoslavia. At this meeting, the Tribunals, the Archives and Records Management Section and the Office of Legal Affairs worked together to commence the establishment of an information security and access regime for the records of the Tribunals and the Residual Mechanism. A new Secretary-General's bulletin is being created for these purposes and will be submitted to the Office of Legal Affairs for its comments.

Development of retention and record-keeping policies

103. The Tribunal's Archives and Records Management Unit is working with the Archives and Records Management Section to produce a comprehensive records retention policy for the substantive records of all three organs of the Tribunal. It is anticipated that this work will be concluded during the course of this year. It was also decided at the Joint Archives Strategy Working Group to collate all record-keeping policies and procedures currently in use by the Tribunals and to identify those required by the Residual Mechanism. The Tribunal sent a draft compilation of all of its records, excluding judicial records, to the Archives and Records Management Section on 1 March 2011.

Preparation of digital records for migration to the Residual Mechanism

104. Upon the approval from the Headquarters Committee on Contracts on 28 October 2009, the Tribunal entered into a contract with Memnon Archiving Services, which became effective on 19 November 2009, to digitize its backlog of audio-visual recordings of court proceedings. The initial estimate of 60,000 hours, upon which the contract was based, was derived from a 2007 version of the Tribunal's court calendar. Substantial progress has been made in digitizing the backlog of audio-visual materials. The Tribunal has raised a requisition for a first option year provision under the contract to ensure continued efforts to complete the digitization of audio-visual materials related to the court records during 2011. There is also a second option year available under the existing contract.

105. A meeting with Memnon is scheduled to review overall progress and to discuss the conditions of the first option year. The Tribunal is also preparing a business case to address digitization of those materials that exceed the projected timelines that existed in 2007.

Review of agreements

106. All agreements of the Tribunal with States and other international bodies are being reviewed to determine whether any do not need to remain in force when the Residual Mechanism starts functioning. Consideration will be given to whether any need to be amended to ensure their continuity beyond the closure of the Tribunal. All security contracts with private entities will be reviewed prior to the closure of the Tribunal with the intention to discontinue such contracts upon closure, and security contracts required to support the Residual Mechanism will need to be renegotiated in line with the scope and size of its security requirements.

107. The General Services Section, together with Procurement, has been planning service and supply contracts with private entities for some time in accordance with the downsizing and upcoming closure of the Tribunal. No such contracts are currently planned to extend beyond the expected closure date. The Tribunal has, where possible, taken optional extensions to give flexibility to continue with required services depending upon operational requirements. This includes the Tribunal's building leases. Utilities contracts have similarly been negotiated with optional extensions and built-in flexibility.

Preparation of hard-copy archives for transfer to the Residual Mechanism

108. The Archives and Records Management Unit has reviewed the report from the specialist conservator who was invited to undertake an assessment of the physical condition of non-documentary exhibits and to make recommendations on any specialist treatment, packaging or storage that might be necessary to preserve these items. This assessment was only preliminary in nature and covered only a small proportion of the Tribunal's collections. It was carried out free of charge by a conservator from the Dutch National Archives. The Archives and Records Management Unit has now proposed that a more extensive and detailed preservation assessment is required, covering all of the Tribunal's collections. To this effect, the Unit is currently preparing the terms of reference to contract a specialist conservator.

109. The Tribunal has managed to identify space within its premises that will be converted to house inactive hard-copy administrative records. It is no longer looking for an off-site storage facility.

Information centres

110. Following the October 2009 mission of the Head of Chambers to the region of the former Yugoslavia, the President established the Informal Consultative Working Group on the Establishment of Information Centres in the Region of the former Yugoslavia, consisting of representatives of Governments in the region, to enable national authorities to better determine whether they consider it desirable to establish information centres on their territories, and if so, to develop a vision for such centres for further elaboration through consultations with civil society in the region. Representatives of the United Nations Development Programme and the United Nations Interregional Crime and Justice Research Institute (UNICRI) were invited to participate in the Working Group as observers. In September 2010, the first meeting of the Working Group was held in Brdo, Slovenia, during which concrete steps were identified to bring the project to fruition. The Tribunal has now circulated a draft project proposal on the establishment of the centres to members and observers of the Working Group for comment, and consultations with NGOs in the region are under way. In the meantime, the Government of Switzerland has offered to host a seminar in the region for members and observers of the Working Group, bringing together experts from various countries working in the field of archives and human rights to share their experiences. During the seminar, the Tribunal's Outreach staff will also report to the Working Group on the feedback received from NGOs. The seminar will take place in June 2011. Subsequently, the Working Group will reconvene in The Hague to discuss the information centre project proposal, after members have had time to reflect upon the seminar discussions and NGO feedback.

IX. Legacy and capacity-building

111. On 28 September 2010, the Tribunal, the OSCE Office for Democratic Institutions and Human Rights, and UNICRI officially launched the joint 18-month War Crimes Justice Project in Belgrade, Serbia. The purpose of the project is to facilitate the transfer of the Tribunal's unique institutional knowledge and specialized skills to jurisdictions in the region and to ensure that those jurisdictions have access to the Tribunal's relevant materials in a useable form. The €4 million project was made possible through the generous funding of the European Union. The Tribunal is directly implementing three components of the project, including the transcription of designated Tribunal proceedings into the local languages of the region, the translation into Bosnian/Croatian/Serbian of the Tribunal's Appeals Chamber case law research tool, and the training of legal professionals on how to access and research the Tribunal's public records. To date, approximately 30,000 pages of transcripts have been completed, approximately 200,000 words of the research tool have been translated and uploaded onto the Tribunal's website, and over 75 legal professionals from regional judiciaries have received training on searching and accessing publicly available Tribunal material.

112. The Tribunal is also lending its expertise to project components administered by OSCE, including the development of an international humanitarian law curriculum tailored to each jurisdiction's legal framework and the publication of a manual incorporating the most effective practices used by Defence counsel before the Tribunal, as well as a range of professional development activities such as peer-to-peer meetings of Judges, prosecutors, and investigators and training of victim and witness support staff. The curriculum and the manual on defence practices are scheduled to be finished in September 2011. During the reporting period, the Tribunal's Judges participated in a peer-to-peer meeting in Sarajevo with their colleagues from Bosnia and Herzegovina, as well as a peer-to-peer meeting in Zagreb with Judges from appellate jurisdictions throughout the region. Tribunal Prosecutors and their national counterparts in the region exchanged experiences during a peer-to-peer meeting in Belgrade.

113. As a means of ensuring the transfer of its expertise and access to its records to Albanian-speaking counterparts in the region, the Tribunal has approached potential donors with a proposal for the production of relevant transcripts in the Albanian language, as well as the translation into Albanian of the Tribunal's manual on developed practices, which was produced by the Tribunal in cooperation with UNICRI and which provides a comprehensive description of the operating practices that have developed at the Tribunal since its inception.

114. Encouraged by the fruitful outcome of the Conference on assessing the legacy of the Tribunal, which explored aspects of the Tribunal's legacy, particularly in the former Yugoslavia, the Tribunal will convene a second conference on 15 and 16 November 2011, concentrating on the Tribunal's global legacy. The global legacy conference will bring together leading academics, international judges and practitioners, State representatives and members of civil society to explore the impact of the Tribunal's work on international humanitarian law and international criminal procedure, as well as the potential of its jurisprudence to shape the future of global justice and the advancement of human rights. Topics to be discussed at the conference include: the impact of the Tribunal's substantive jurisprudence on the elucidation of customary international humanitarian law; the fusion of common and

civil law procedures: efficiency and fairness in complex international trials; the impact of the Tribunal's work on the future of global justice and the advancement and enforcement of human rights; and the Tribunal's jurisprudential contribution to the clarification of the core crimes of genocide, crimes against humanity and war crimes. It is anticipated that some 350 people will participate in the conference, including some of the most eminent scholars and practitioners in the field of international criminal and humanitarian law. The conference will be funded by voluntary contributions.

X. Conclusion

115. This report demonstrates the Tribunal's steadfast commitment to the expeditious conduct of its proceedings in full compliance with due process standards. Some estimates for the completion of proceedings have had to be revised in light of factors beyond the Tribunal's control. As much as possible, the Tribunal has undertaken measures to minimize the impact of these factors upon its proceedings.

116. Staff attrition has had a dramatic impact upon the pace of the Tribunal's proceedings. The need for measures to assist in retaining staff at this very critical juncture in the Tribunal's life cannot be overstressed. Previous reports have repeatedly brought this need to the attention of the Security Council. Without practical and effective staff retention measures, the situation will worsen, and the Security Council should expect to see further revised estimates in the future as a direct result of staff attrition.

117. The Tribunal has successfully brought to trial those accused of serious violations of international humanitarian law, thus sending a clear and unequivocal message that impunity for such offences will not be tolerated. The Tribunal also encourages the Security Council to support the judicial institutions in the region of the former Yugoslavia in continuing the work initiated by the Tribunal and the Council. By balancing the need to expedite its proceedings with a keen attentiveness to the rights of the accused and by helping to strengthen the capacity of the States of the former Yugoslavia to try alleged violations of international humanitarian law in their own courts, the Tribunal has fortified the rule of law in the former Yugoslavia and in the wider global community.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

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I. Introduction

1. The Prosecutor submits this fifteenth completion strategy report pursuant to Security Council resolution 1534 (2004).

2. Serbia's search for the two remaining International Tribunal for the Former Yugoslavia fugitives (Ratko Mladić and Goran Hadžić) was a major focus of attention for the Office of the Prosecutor in this reporting period. The Office of the Prosecutor remains deeply concerned about Serbia's continuing failure to locate and arrest the two remaining fugitives. While the international community has underscored its commitment to ensuring that these men are tried regardless of when they are arrested, it is in the interests of the victims of the relevant crimes and of justice more generally for the fugitives to face trial expeditiously. In the present reporting period, the Office of the Prosecutor used every effort to encourage Serbia to fulfil its obligation to arrest the fugitives, and the fugitives will continue to be a priority in the coming weeks and months.

3. Another feature of this reporting period is the completion of a significant amount of the trial work of the Office of the Prosecutor and the increasing reorientation of the caseload of the Office towards the appeal phase of proceedings. At this juncture, only one trial is in the pretrial phase (the *Haradinaj et al.* re-trial). In two trials, the Prosecution is presenting its case-in-chief (*Karadžić* and *Tolimir*), and in the remaining three cases, the trials are in the defence phase (*Šešelj*, (Jovica) *Stanišić and Simatović* and (Mićo) *Stanišić and Župljanin*). Two trials have concluded and are awaiting judgement (*Prlić et al.* and *Perišić*). Five cases are either on appeal or in the notice of appeal phase (*Šainović et al.*, *Lukić and Lukić*, *Popović et al.*, *Đorđević* and *Gotovina*).

4. The Office of the Prosecutor has continued to manage its resources effectively in the present period, finding creative solutions to staffing issues. As the number of trials decreases and the corresponding trial team posts are downsized, the Appeals Division has begun absorbing more general functions for the Office of the Prosecutor as a whole. So far, the Office has met all of its case-work obligations. However, flexibility is decreasing as core staff members leave and finding suitable candidates to fill vacancies becomes more difficult. These difficulties will likely escalate given the absence of incentives for staff to remain.

5. The Office of the Prosecutor also continues to facilitate national war crimes prosecutions. Capacity-building in the region of the former Yugoslavia is an important aspect of the Tribunal's legacy. The Office is also fully supporting the preparations for the International Residual Mechanism for Criminal Tribunals that will take over from the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in accordance with Security Council resolution 1966 (2010) of 22 December 2010.

II. Completion of trials and appeals

A. Measures taken to expedite the presentation of evidence in court

6. During the reporting period, the Office of the Prosecutor continued to employ the measures for expediting trials outlined in the Prosecutor's last report, without

adversely affecting the overall interests of justice. These measures focus on narrowing the issues in dispute with defence teams as much as possible and presenting evidence in written form. The Prosecution continues to identify new ways to reduce the time taken to present evidence in court.

B. Effective management of resources

7. As the process of reducing staff numbers in the Trial Division of the Office of the Prosecutor continues following the completion of trials, the Appeals Division has increasingly been assigned responsibility for essential general functions for the Office of the Prosecutor as a whole. For example, staff members in the Appeals Division have now assumed responsibility for: maintaining a digest of the Tribunal's substantive and procedural case law and ensuring its dissemination throughout the Office; assisting with the development of a new web page for the Office to facilitate the collection and development of legal resources of general interest throughout the Office; overseeing the selection, assignment, training and management of interns for the Office; and organizing periodic Legal Advisers' meetings to promote information-sharing and the continuing legal development of staff within the Office.

8. Particularly in periods when appeals casework activity is low, appeals staff members have been assigned to assist with a wide variety of other tasks throughout the Office. The Appeals Division provides substantial support to trial teams with briefing complex legal issues at trial and during interlocutory appeals. Assistance is also provided on the legal submissions in final trial briefs and closing arguments. Appeals staff members have assisted trial teams with time-limited issues, such as disclosure. They also support the immediate Office of the Prosecutor on Residual Mechanism issues and Transition Team matters. Finally, as referred to below, the Appeals Division is presently absorbing the work arising out of the *Haradinaj et al.* retrial and the *Rašić* contempt trial.

9. Through effective planning and resource management, the Office of the Prosecutor is also taking active steps to maintain a knowledgeable appeals team for future appeals cases, notwithstanding the loss of institutional knowledge about completed trials as staff from the Trial Division are downsized. For example, in recruiting appeals staff, priority was given to candidates with the language skills and knowledge of relevant aspects of the conflict to effectively deal with future appeal cases.

C. Impact of staff attrition

10. In the Office of the Prosecutor, the increasing rate of staff departures before the completion of cases makes it more difficult for the Prosecution to meet its casework obligations. Staff members are increasingly leaving the Office of the Prosecutor to secure longer-term employment, with the result that remaining staff members must shoulder unrealistically heavy burdens. Recruiting to fill vacancies has become more difficult owing to the limited duration contracts that can be offered. The situation is particularly severe for small trial teams. For example, in the *Perišić* case, one of two Senior Trial Attorneys leading the case and an Investigator left after the Prosecution's case was completed and could not be replaced.

D. Update on the progress of trials

1. *Karadžić*

11. The Prosecution is now presenting the third component of its case-in-chief, dealing with genocide, persecution and other crimes committed in municipalities throughout Bosnia and Herzegovina. Based on the current progress of the trial, the Prosecution anticipates that it will complete its case by late spring/early summer 2012. As of April 2011, the Prosecution had used 122 of the 300 hours the Trial Chamber allocated for the presentation of its evidence. Karadžić's cross-examination of Prosecution witnesses continues to occupy the largest percentage of court time. Between 13 April 2010 and 21 March 2011, Karadžić used 69.6 per cent of court time. By contrast, the Prosecution used 23.7 per cent and the Chamber 6.7 per cent.

12. In this reporting period, starting in March 2011, there has been a two-month disclosure-related interruption to the trial schedule. The trial will resume on 31 May 2011. The Prosecution makes every effort to ensure timely disclosure and to minimize delays to the trial schedule resulting from Karadžić's disclosure-related complaints.

13. The magnitude of the documents disclosed in the *Karadžić* case reflects a number of factors including: the size of the Office of the Prosecutor's evidence collection, which comprises some 9,000,000 pages; Karadžić's high profile and senior position during the four-year conflict, resulting in enormous quantities of documents that are potentially relevant to his acts and conduct; the breadth of the Prosecution's disclosure obligations under Rules 66 and 68 requiring disclosure of materials on peripheral issues and issues about which there is no dispute; the fact that Karadžić has requested, pursuant to Rule 66 (B), material falling under more than 170 different topics; and Karadžić's many potential exculpatory claims that are peripheral to the main issues of the case, but nevertheless require disclosure searches and reviews by the Office of the Prosecutor.

14. The Prosecution has taken all available steps to put in place efficient disclosure systems. For example, the Prosecution has: facilitated Karadžić's immediate access to materials as much as possible via the electronic disclosure suite, as well as by disclosing materials to him and his Defence team on compact discs; reallocated all available resources to focus on disclosure reviews; within existing budgetary limits, hired temporary staff to work exclusively on disclosure reviews; and facilitated Karadžić's disclosure reviews as much as possible by fully reviewing and organizing the materials for him prior to handing them over. At the Trial Chamber's direction, marking a departure from the practice in previous cases, the Prosecution has provided Karadžić with its witness-related disclosures for the entire case, rather than providing disclosure on a rolling basis according to the witness schedule. The Prosecution has also implemented measures to process and disclose new materials expeditiously.

15. No delays have resulted from the Prosecution tendering Mladić's notebooks and related materials, which have been admitted into evidence in their entirety. The Prosecution facilitated this outcome by rearranging its witness list to delay calling witnesses dealing with the Mladić materials.

2. *Perišić*

16. This case has been completed and the Trial Chamber is preparing its judgement. According to the latest trial schedule, the judgement in this case is projected for August 2011. The parties filed their final briefs on 4 March 2011 and they made their closing submissions between 28 and 31 March 2011.

3. *Prlić et al.*

17. This case has been completed and the Trial Chamber is preparing its judgement. According to the current trial schedule, the judgement is projected for June 2012. The parties filed their final briefs on 7 January 2011 and they made their closing submissions between 7 February 2011 and 2 March 2011.

18. As detailed in the Prosecutor's last report, the Trial Chamber permitted the Prosecution to tender six short excerpts from Mladić's notebooks, as well as two related written witness statements. In late November 2010, the Trial Chamber partially granted Defence requests to tender a small amount of Mladić materials in response, but rejected a request by the accused Praljak to give testimony regarding the materials. Overall, a limited amount of the Mladić materials was admitted and caused no delay.

4. *Šešelj*

19. This trial is currently in the defence phase of the case. Šešelj requested a judgement of acquittal pursuant to Rule 98*bis* on 7 March 2011. On 4 and 5 May 2011, the Trial Chamber, by majority, rejected Šešelj's submission. The Trial Chamber ordered Šešelj to submit his witness and exhibit lists and related materials by 17 June 2011.

20. No evidence was heard during this reporting period. In December 2010, the Trial Chamber rendered decisions on 14 evidence-related motions that had been pending from as early as April 2009. The Trial Chamber rendered a further two decisions on evidence-related motions on 7 March 2011. Four evidence-related motions filed by the Prosecution are still pending. To expedite the proceedings, the Prosecution proceeded to the Rule 98*bis* phase of the case, notwithstanding that these motions remain undecided.

21. On 7 March 2011, the Trial Chamber admitted 13 excerpts from Mladić's notebooks and supporting materials, following receipt and review of a 15 January 2011 handwriting analysis ordered by the Trial Chamber.

5. (Jovica) *Stanišić and Simatović*

22. The Prosecution has completed its case and the defence phase of the case will begin on 15 June 2011. The Prosecution called its final witness on 9 February 2011 and closed its case on 5 April 2011. The Prosecution adduced the evidence of 97 witnesses and tendered almost 3,000 exhibits in 90 hours of court hearing time. The time used is one half of the Prosecution's original estimate and 30 per cent less than the time allotted by the Trial Chamber.

23. On 5 May 2011, the Trial Chamber issued a decision rejecting Simatović's motion under Rule 98*bis* seeking a judgment of acquittal after the Prosecution case. Jovica Stanišić did not file a Rule 98*bis* motion. Both Defence teams have yet to

disclose the witnesses and exhibits to be presented during the defence phase of the case.

6. (Mićo) *Stanišić and Župljanin*

24. The defence phase of this case began on 11 April 2011. Mičo Stanišić is presenting his evidence and he has indicated that he will call nine *viva voce* witnesses and submit two witness statements under Rule 92*quarter*. Stanišić has asked for 102 hours to complete the direct examination of his witnesses. Župljanin has listed 25 witnesses and he has estimated that he will require 70 hours for the direct examination of his witnesses. Based on current estimates, the defence phase could be completed by around September 2011.

25. The case is presently proceeding without major delays. The timely translation of documents presents some challenges due to the heavy workload of the remaining language staff at the International Tribunal for the Former Yugoslavia. One factor that may have an impact on the future pace of the trial is that the three Judges composing the Trial Chamber are also assigned to other cases. Presiding Judge Hall and Judge Delvoie are assigned to the *Haradinaj et al.* retrial and they have indicated that it is unlikely that the *Stanišić and Župljanin* Trial Chamber will continue to sit five days per week for the duration of the trial. Judge Harhoff is assigned to the *Šešelj* case.

26. The introduction of material from Mladić's notebooks caused a minimal one-week delay.

7. *Tolimir*

27. The Prosecution continues to present its case-in-chief and is proceeding ahead of schedule. Based on current estimates, the Prosecution's case should be completed by August 2011. To date, the Prosecution has used 36.9 per cent of court time, the Defence 46 per cent, with questions from the Judges and procedural matters accounting for the remainder of the time. The Prosecution is continuously re-evaluating the remaining evidence and reducing the number of witnesses and the length of time taken to present their evidence wherever possible.

28. The Prosecution has tendered several of Mladić's notebooks. The Trial Chamber accommodated Tolimir's request for time to review the materials by extending the winter court recess by three weeks. This short adjournment has not delayed the progress of the trial.

29. The fact that Tolimir, who is self-represented, uses documents in the Bosnian/Croatian/Serbian language without providing translations to the Office of the Prosecutor, puts significant pressure on the reduced numbers of language staff working within Office of the Prosecutor teams.

8. *Haradinaj et al.* (retrial)

30. This case remains in the pretrial phase. The Prosecution filed its pretrial brief and witness and exhibit lists on 3 December 2010. No date for the trial to commence has been scheduled. Appeals from the three accused on the scope of the retrial are pending. The Defence teams are yet to file their pretrial materials.

31. The low numbers of Albanian language staff available to the Office of the Prosecutor may be an issue as the case proceeds.

32. The Prosecution continues to staff the *Haradinaj et al.* retrial with resources from the Appeals Division, given that the retrial was not ordered until after the present budget for the International Tribunal for the Former Yugoslavia had been adopted.

E. Update on the progress of appeals

33. During the reporting period, no appeals judgements were issued, while one review judgement was issued. On 8 December 2010, the Appeals Chamber rendered its review judgement in the *Šljivančanin* case. The Appeals Chamber reversed Šljivančanin's conviction for aiding and abetting murder that had been entered by the Appeals Chamber in the appeal judgement and restored the acquittal originally entered by the Trial Chamber. Šljivančanin's conviction for aiding and abetting torture, entered by the Trial Chamber, was indirectly affected by the review judgement. To correct a sentencing error made by the Trial Chamber in connection with this conviction, the Appeals Chamber in its review judgement increased Šljivančanin's sentence from 5 to 10 years of imprisonment.

34. During the reporting period, no appeals hearings were held. Two appeals are fully briefed and awaiting hearing. The briefing in the *Šainović et al.* case was completed in November 2009, and current projections from the Appeals Chamber indicate that the hearing will take place in February 2012 at the earliest. The briefing in the *Milan Lukić and Sredoje Lukić* case was completed in February 2010, and a hearing has been scheduled for July. In addition, the briefing in the *Popović et al.* case is now substantially complete and the Appeals Chamber projects the hearing in July 2013 at the earliest.

35. In this reporting period, two trial judgements were rendered and the appeal process is now under way in those cases. The *Đorđević* trial judgement was issued on 23 February 2011 and the *Gotovina et al.* trial judgement was issued on 15 April 2011. The parties in the *Đorđević* case are presently reviewing the judgement to determine whether to file notices of appeal, which would be due on 24 May 2011. Notices of appeal in the *Gotovina et al.* case were filed on 16 May 2011. The Prosecution has not filed an appeal against the trial judgement.

F. Contempt cases

1. *Rašić*

36. This contempt case continues in the pretrial phase. The Prosecution filed its pretrial brief on 2 May 2011, and the next status conference in the case is scheduled for 27 May 2011. In an effort to expedite the trial, the Prosecution proposed over 80 facts for agreement between the Prosecution and Defence and is in cooperative dialogue with the Defence to identify issues not in dispute between the parties.

37. The Prosecution continues to staff this non-budgeted contempt trial using resources from the Appeals Division.

2. *Šešelj*

38. The multiple contempt proceedings arising out of the *Šešelj* case continue to generate significant additional work for the Office of the Prosecutor. A second contempt trial has commenced against Šešelj for publishing confidential information in violation of a court order. An *amicus* Prosecutor has also been investigating Šešelj's contempt allegations against Office of the Prosecutor staff. Although these contempt matters are the responsibility of appointed *amici*, the Prosecution has devoted substantial resources to analysing the evidence required by the *amici*, compiling and providing documents and preparing responses to requests by the *amici*.

39. Securing Šešelj's compliance with orders concerning his contemptuous conduct remains a major issue confronting the Tribunal. Šešelj has failed to remove protected material from his website in violation of court orders. Šešelj's lack of compliance with court orders requires continuous monitoring to ensure the protection of witnesses, constitutes a drain on the Tribunal's resources and, ultimately, presents a challenge for its effective functioning.

G. Access orders

40. Orders by the Chambers granting an accused person in one case access to confidential materials in related cases (access orders) require a substantial allocation of resources across the Office of the Prosecutor on a regular basis. The Office is required to review all of the confidential materials on the trial record to identify the materials to be provided or withheld. Often, it is necessary to request the consent of the provider of the materials or other relevant persons. If access is limited to certain categories of confidential materials, the Office must review the voluminous trial records to identify the material falling within the relevant categories. As of 16 May, there were also more than 20 orders granting access to confidential materials in ongoing trials on a continuing basis. These access orders require the Office to continuously review the trial records as the cases progress and to notify the Registry of materials to be provided or withheld from the accused person who has been granted access.

III. Cooperation

A. Cooperation from the States of the former Yugoslavia

41. Cooperation from the States of the former Yugoslavia remains crucial, particularly when it comes to: locating, arresting and transferring the two remaining fugitives; providing access to archives, documents and witnesses; and protecting witnesses.

42. To promote and assess cooperation during the reporting period, the Office of the Prosecutor maintained a direct dialogue and met with Government and judicial authorities from Serbia, Croatia and Bosnia and Herzegovina, including officials in national prosecution offices.

1. Cooperation of Serbia

43. The Office of the Prosecutor requires cooperation from Serbia in two principal areas. The first area is the implementation of Serbia's obligation to arrest the two fugitives, Ratko Mladić and Goran Hadžić. The arrest of the fugitives remains the highest priority of the Office. Secondly, the Office requires Serbia's support in ongoing trials and appeals as well as for transferred cases.

(a) Arrest of the fugitives

44. Responsibility for locating and arresting Ratko Mladić and Goran Hadžić rests with the Serbian authorities. Their capture is Serbia's most critical outstanding obligation. To date, Serbia's efforts to apprehend the fugitives have not been sufficient.

45. During the reporting period, the Serbian authorities regularly apprised the Office of the Prosecutor of their efforts to apprehend the fugitives, including investigative steps taken and avenues pursued. The Office maintained professional relationships with Government officials at the highest levels as well as those leading operational services. During this reporting period, the Prosecutor travelled twice to Belgrade to meet with Serbia's authorities.

46. During his last meeting in Belgrade, the Prosecutor was informed about reforms to the Police War Crimes Investigations Office, including increasing staff numbers and giving the police a more active role in the search operations. The Prosecutor was also informed about decisions by the War Crimes Department of Belgrade's High Court on 10 May 2011, accepting guilty pleas from six people who helped Župljanin when he was a fugitive from the Tribunal.

47. In the Prosecutor's June 2010 Completion Strategy report, Serbia was strongly encouraged to adopt a more rigorous approach to arresting the fugitives. An in-depth strategy review was recommended and ways of improving the Serbian authorities' operational approach, analysis and methodologies were identified. In the Prosecutor's December 2010 Completion Strategy report, faced with the absence of tangible results, the Office of the Prosecutor urged the Serbian authorities to intensify their efforts in implementing the recommendations made. They were asked to explore fresh leads more expeditiously and to cover all avenues in the search of the fugitives. Overall, they were asked to adopt a more proactive approach.

48. Serbia continues to conduct operational activities, under the leadership of the National Security Council. However, no concrete results have been achieved and the Prosecutor's criticisms and recommendations expressed last December remain partially unaddressed. In particular, the authorities remain focused on a limited number of leads and have failed to implement the agreement to widen the scope of the investigations. A number of operational deadlines and targets agreed upon with the Office of the Prosecutor in February 2011 have also not been met.

49. The current Serbian strategy for apprehending the fugitives is comprehensively failing. Serbia must critically re-evaluate all steps undertaken so far, re-assess its strategy and working methods and immediately address all operational shortcomings. A new, significantly more rigorous approach is urgently needed to widen the scope of the investigation and to effectively use all tools, assets and means available.

50. Throughout this reporting period, the Office of the Prosecutor has persistently asked the Government of Serbia to examine the role played by networks of people supporting the fugitives to evade justice. Aside from the example mentioned above concerning the network supporting Župljanin, action taken against individuals accused of helping fugitives have yielded few results. Continuing efforts are needed to address this issue comprehensively and the Serbian authorities must demonstrate more determination in targeting and publicly denouncing networks.

51. The Office of the Prosecutor once more urges the Serbian authorities to step up efforts to apprehend the fugitives. Without a notable improvement in the level of cooperation, the fugitives will not be arrested. The Government of Serbia must translate its expressed commitment to arrest the fugitives into concrete action and visible results.

(b) Support to ongoing trials and appeals

52. In this reporting period, the Serbian authorities have maintained the level of cooperation concerning ongoing trials and appeals from the previous reporting period. Serbia's National Council for Cooperation with the Tribunal was a key factor in achieving this outcome and it continues to work on improving cooperation among different government bodies handling requests of the Office of the Prosecutor. Serbia's responses to the requests by the Office for access to documents and archives have been timely and adequate, with no requests presently unanswered.

53. The National Council for Cooperation, in response to the persistent efforts of the Office of the Prosecutor, has not objected to Supreme Defence Council documents in the *Perišić* case being reclassified as public documents. As a result, in March 2011, the Prosecutor informed the *Perišić* Trial Chamber that the Supreme Defence Council documents could be made public. The Office of the Prosecutor welcomes this important development.

54. The Serbian authorities have continued to facilitate the appearance of witnesses before the Tribunal, including by serving summonses. They have also responded adequately to requests to facilitate witness protection, with the Office of the War Crimes Prosecutor providing key assistance in these matters.

55. The Office of the Prosecutor encourages the Serbian authorities to continue responding effectively to its requests for assistance, which will be crucial to the successful completion of the Tribunal's remaining trials and appeals.

2. Cooperation of Croatia

56. In general, Croatia continues to respond in a timely and adequate manner to the requests by the Office of the Prosecutor for assistance and provides access to witnesses and evidence as required.

57. During the reporting period, the inter-agency Task Force established in October 2009 to locate or account for the missing military documents concerning Operation Storm requested for the *Gotovina et al.* case, continued its administrative investigation. Since December 2010, the Task Force has submitted three reports (dated 18 January 2011, 4 February 2011 and 28 February 2011 respectively) and a separate report on 14 April 2011 summarizing all of its activities and findings to date. A number of inconsistencies and questions raised in connection with the Task

Force's findings, as mentioned in the Prosecutor's last completion strategy report, remain unresolved. The missing documents are unaccounted for.

58. On 15 April 2011, the Trial Chamber rendered its judgement in the *Gotovina et al.* trial. During his visit to Croatia on 4 May 2011, the Prosecutor was informed by the Croatian authorities that the Task Force would continue its administrative investigation into the missing documents originally requested by the Office of the Prosecutor as well as other documents required in national proceedings.

3. Cooperation of Bosnia and Herzegovina

59. Cooperation with Bosnia and Herzegovina is focused primarily on three areas. The Office of the Prosecutor requires Bosnia and Herzegovina to: provide assistance with ongoing trials and appeals; assist in arresting the fugitives and the individuals in their support networks; and cooperate in relation to transferred cases.

(a) Support to ongoing trials and appeals

60. During this reporting period, the authorities of Bosnia and Herzegovina, at both the State and entity levels, responded promptly and adequately to requests for documents and for access to Government archives. The authorities also continued to assist by facilitating the appearance of witnesses before the Tribunal.

61. The authorities satisfactorily handled a number of urgent requests from the Office of the Prosecutor. The authorities have also assisted with witness protection matters. The Office appreciates the continued assistance of the authorities on these matters.

(b) Fugitive networks

62. The Office of the Prosecutor continues to encourage law enforcement and judicial authorities in Bosnia and Herzegovina to act against those helping the fugitives to evade justice or who are otherwise obstructing the effective implementation of the Tribunal's mandate.

(c) Transferred cases and investigation files

63. The Office of the Prosecutor supports the work of the State Prosecutor and the Special Department for War Crimes in processing cases and investigation files transferred by the Tribunal. All cases transferred pursuant to Rule 11*bis* have been completed.

64. As the Tribunal's work nears completion, the Office of the Prosecutor will continue to assist national prosecutions, including the cases and files transferred by the Tribunal. Owing to internal structural difficulties, national war crimes prosecutions continue to face challenges. A large backlog of cases is yet to be prosecuted, overall progress is slow and the National War Crimes Strategy is not yet fully implemented. The Office of the Prosecutor encourages Bosnia and Herzegovina to address these issues and calls for greater cooperation between State and entity-level jurisdictions, which is crucial for effectively implementing the National War Crimes Strategy.

4. Cooperation between States of the former Yugoslavia in judicial matters

65. Cooperation in judicial matters between the States of the former Yugoslavia remains critical to completing the Tribunal's mandate.

66. Judicial institutions in the former Yugoslavia still face challenges in coordinating their activities. Recent developments have shown that the failure to adequately address judicial cooperation threatens the rule of law needed to ensure stability and reconciliation in the region.

67. Recently concluded bilateral judicial cooperation agreements between prosecutors of Bosnia and Herzegovina, Croatia and Serbia have improved information and evidence-sharing in war crimes investigations. The Office of the Prosecutor welcomes these initiatives to address past deficiencies. However, legal barriers to the extradition of suspects and the transfer of evidence across State borders continue to obstruct effective investigation. In addition, prosecutors from different States conduct parallel war crimes investigations. This practice threatens the successful investigation and prosecution of war crimes cases and exacerbates the problem of impunity. While regional prosecutors express a commitment to addressing the problem of parallel investigations, urgent action is needed at the political and operational level.

B. Cooperation from other States and organizations

68. The Office of the Prosecutor relies upon States outside of the former Yugoslavia, as well as international organizations, to provide documents, information and witnesses for trials and appeals. The successful completion of the Tribunal's work also depends on the international community's assistance. Witness protection and, when necessary, witness relocation, are still critical and dependant on cooperation from States.

69. The Office of the Prosecutor appreciates the support of States, as well as international and regional organizations, such as the European Union, the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia. This support is essential as the Tribunal completes its work.

IV. Transition to domestic prosecution

70. During the reporting period, the Office of the Prosecutor continued to support national prosecutions by facilitating access to investigative material and evidence from Tribunal case records and the database of the Office of the Prosecutor in The Hague.

71. Working relationships with the State Prosecutor's Offices in Bosnia and Herzegovina and Croatia, and the War Crimes Prosecutor's Office in Serbia have been strengthened. An integral part of further developing positive relationships with the counterparts of the Office of the Prosecutor in the region has been the continued presence of liaison prosecutors in the Office of the Prosecutor in The Hague. These liaison prosecutors are participating in the Joint European Union and Tribunal Training Project for National Prosecutors and Young Professionals from the former

Yugoslavia. There are three prosecutors participating in this project: one from the State Prosecutor's Office in Bosnia and Herzegovina, one from the State Attorney's Office in Croatia and one from the War Crimes Prosecutor's Office in Serbia.

A. Rule 11*bis* cases

72. All cases transferred from the Tribunal to Bosnia and Herzegovina and Croatia pursuant to Rule 11*bis* have been finalized. The judgement in the last of these cases — the case against *Milorad Trbić*, who was convicted of genocide and sentenced to 30 years of imprisonment — was confirmed on appeal on 14 January 2011.

73. The *Kovačević* case, which was transferred to Serbia, remains suspended due to the ill health of the accused. It remains unclear when, or if, the accused will be fit to stand trial. The Office of the Prosecutor has requested that the Serbian authorities monitor the situation and provide the Office with regular updates about the status of the case. There is an ongoing civil procedure to determine whether Kovačević should be institutionalized due to the state of his health.

74. As mentioned in previous reports, the failure to re-arrest Radovan Stanković is an ongoing concern. Stanković, a Rule 11*bis* transferee, escaped from prison in Foča, where he was serving a prison sentence imposed by the Bosnia and Herzegovina court. Stanković is still at large, most likely in Bosnia and Herzegovina or in Serbia, nearly four years after his escape. Both Serbia and Bosnia and Herzegovina are responsible for taking action to apprehend Stanković. Although Bosnia and Herzegovina has set up a task force, it has not been effective. The Office of the Prosecutor urges Bosnia and Herzegovina to increase efforts to apprehend Stanković and to take all necessary measures against those who have assisted Stanković's escape. Similarly, despite numerous requests, Serbia has taken no steps to assist in locating and apprehending Stanković. The Office of the Prosecutor urges Serbia to address the situation.

B. Disclosure of material relating to crimes that were not prosecuted in Tribunal cases

75. On occasion, crimes documented in Tribunal cases were not the subject of charges in those cases. Sometimes, this was because the Prosecution was unable to amend indictments to include the charges. In other cases, the Prosecution did not prosecute the crimes, but evidence of the crimes emerged during the trial. The Office of the Prosecutor is taking steps to transfer this information to the relevant national authorities for follow-up. In one case, the information transferred to the national authorities led to an investigation and the Office of the Prosecutor is providing follow-up information in response to requests for assistance.

C. Requests for assistance from national judicial authorities

76. Between 1 December 2010 and 16 May 2011 the Office of the Prosecutor received a total of 123 new incoming requests for assistance from States. Of these, 86 were submitted by national judicial authorities in the former Yugoslavia and the remaining 37 requests were submitted by prosecutors' offices and law enforcement

agencies in other States. The majority of the requests from States in the former Yugoslavia came from Bosnia and Herzegovina (55), with 17 from Croatia and 14 from Serbia.

77. In the same period, the Office of the Prosecutor responded to a total of 93 requests for assistance. Sixty-nine of those responses concerned requests from judicial authorities in the former Yugoslavia. The majority of responses were sent to Bosnia and Herzegovina (46), 11 were sent to Croatia and 12 to Serbia. A number of the requests were extensive, and hundreds of pages of material were disclosed in response. Some requests were closely linked to Tribunal cases, and liaison prosecutors working in the Office of the Prosecutor played a key role in processing the requests. Twenty-four responses were sent to the judicial authorities and law enforcement agencies in other States.

D. Proceedings under Rule 75(G) and Rule 75(H)

78. The Office of the Prosecutor facilitates the transfer of Tribunal material for domestic proceedings under the provisions of Rule 75(G) and Rule 75(H) of the Rules of Procedure and Evidence of the Tribunal. Rule 75(G) allows the Prosecution to seek the variation of protective measures governing materials in Tribunal cases to enable the transfer of relevant materials to regional authorities. Rule 75(H) allows parties to the proceedings in national prosecutions to directly seek variation of protective measures governing materials from Tribunal cases to which they seek access. In the reporting period, the Prosecution responded to five Rule 75(H) applications from judicial authorities in the States of the former Yugoslavia and filed six applications pursuant to Rule 75(G).

E. Capacity-building efforts and inter-State regional cooperation

79. Successful domestic prosecutions for crimes committed during the conflict in the former Yugoslavia require national criminal justice systems with the capacity to deal effectively with these complex cases. The Office of the Prosecutor is working to strengthen the capacity of national systems to handle these cases through effective partnerships with prosecutors and courts in the region. In addition, personnel from the Tribunal's Chambers and Registry have worked in association with the Office of the Prosecutor in training initiatives.

80. The liaison prosecutor component of the Joint European Union and Tribunal Training Project for National Prosecutors and Young Professionals from the former Yugoslavia forms the cornerstone of the Office of the Prosecutor's capacity-building efforts. The three liaison prosecutors, in close cooperation with staff in the Office of the Prosecutor Transition Team, search and review non-confidential materials for the purposes of local war crimes investigations and cases. The liaison prosecutors are taught the same search methodologies used by Office of the Prosecutor criminal analysts. They actively consult with in-house experts and other personnel on relevant cases and general issues. Moreover, the liaison prosecutors play an important role as contact points within the Office of the Prosecutor for war crimes prosecutors throughout the region. At the same time the liaison prosecutors help process requests by the Office for assistance in current cases.

81. In addition to the liaison prosecutors, the project invests in the education and training of young legal professionals from the former Yugoslavia who have a special interest in war crimes cases. During this reporting period, nine young legal professionals from Bosnia and Herzegovina, Croatia, Serbia and Montenegro have worked as interns, assisting the Office of the Prosecutor with work on evidentiary and legal matters. They assist with preparing examinations-in-chief and cross-examinations, drafting motions and briefs, conducting legal research, preparing memos, minutes and correspondence and reviewing and preparing evidence for trial. They are also invited to attend lectures and presentations on topics related to the work of the Office of the Prosecutor and the Tribunal in general. This initiative directly contributes to the future capacity of the countries in the former Yugoslavia to effectively deal with complex war crimes cases.

82. The Office of the Prosecutor supports training programs for local prosecutors in the former Yugoslavia and facilitates the involvement of its staff in these programmes so that they can share their expertise. In the reporting period, representatives of the Office participated in four regional conferences focusing on information-sharing and the development of expertise and best practices. The multiple agencies involved in supporting regional training programmes are encouraged to coordinate their programmes and avoid duplication.

V. Downsizing and preparing for the International Residual Mechanism

A. Downsizing

83. The Office of the Prosecutor continues to downsize staff with the completion of trial activities. When trials finish, posts for the corresponding trial team are abolished. During the reporting period, the Office downsized 15 Professional posts and 16 General Service posts. In particular, the Office downsized two Professional posts in the Transition Team on 1 January 2011 and 13 Professional posts related to the *Perisić* trial on 1 May 2011. The Office also downsized six General Service posts related to the *Perisić* trial on 1 May. The remainder of the downsized General Services posts comprise one Information Support Unit post on 1 January 2011, one Cartographic Clerk on 1 March 2011, four Evidence Unit staff (two on 1 January 2011 and two on 1 June 2011) and four Document and Video Unit posts (two on 1 January 2011 and two on 1 June 2011). In the next reporting period, the Office will downsize a further 26 posts (18 Professional posts and 8 General Service posts).

84. The Office of the Prosecutor is conscious that the downsizing process should be conducted fairly and transparently and that staff members should be given the maximum possible notice of contract termination. The Office supports initiatives within the Tribunal and the United Nations system to assist Tribunal staff in finding future employment options.

B. Residual Mechanism

85. Following Security Council resolution 1966 (2010) of 22 December 2010, the Office of the Prosecutor has been supporting efforts to prepare for the commencement of the International Residual Mechanism for Criminal Tribunals that

will take over the work of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. The Office of the Prosecutor is represented on the Residual Mechanism Steering Committee of the International Tribunal for the Former Yugoslavia and is actively engaged with Registry officials in preparing budgets for the Residual Mechanism and the Tribunal for the next biennium. The Office of the Prosecutor has also analysed the predicted functions of the Prosecutor's Office of the International Tribunal for the Former Yugoslavia Branch of the Residual Mechanism and identified possibilities for resource-sharing and double-hatting between that Office in the Residual Mechanism and the Tribunal. The Office of the Prosecutor is in continuous dialogue with counterparts in the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to ensure a coordinated, consistent and efficient approach to Residual Mechanism matters.

VI. Conclusion

86. In this reporting period, the efforts of the Office of the Prosecutor to streamline its procedures, in combination with the commendable commitment of staff members of the Office, significantly facilitated the completion of the trial obligations of the Office. The Office of the Prosecutor is increasingly shifting the focus of its attention and resources to the appeals phase of proceedings to ensure that it is effectively positioned to deal with the intense appellate caseload on the horizon. At the same time, the Office of the Prosecutor is downsizing upon the completion of trials as planned.

87. In these final stages of the work of the Office of the Prosecutor, partnerships with counterparts in the region of the former Yugoslavia remain a central focus. The Office continues to take all available steps to support and encourage local judiciaries as they work towards establishing accountability for crimes committed during the conflict. The Joint European Union and Tribunal Training Project for National Prosecutors and Young Professionals from the former Yugoslavia, which has facilitated the presence of liaison prosecutors and interns from the region, is a central component of the efforts of the Office of the Prosecutor in this regard.

88. The capture of the two remaining Tribunal fugitives (Ratko Mladić and Goran Hadžić) remains the foremost concern of the Office of the Prosecutor. Serbia's failure to arrest these two men undermines its credibility and the strength of its stated commitment to fully cooperate with the Tribunal. It also threatens to tarnish the successful completion of the Tribunal's mandate and presents an obstacle to fulfilling the international community's commitment to international justice. Serbia must act urgently to ensure that the fugitives are brought to trial without further delay.

Enclosure I

1. Persons Convicted or Acquitted Between 15 November 2010 and 15 May 2011 (4)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
Vlastimir Đorđevic	Assistant Minister of the Serbian Ministry of Internal Affairs (MUP), Chief of the Public Security Department of the MUP	19-Jun-07	Sentenced to 27 years of imprisonment
Ante Gotovina	Commander, Split Military District, Croatian Army	12-Dec-05	Sentenced to 24 years of imprisonment
Ivan Čermak	Assistant Minister of Defence, Commander of Military Police, Croatia	12-Mar-04	Acquitted of all charges
Mladen Markač	Special Police Commander, Croatia	12-Mar-04	Sentenced to 18 years of imprisonment

2. Persons Convicted or Acquitted of Contempt Between 15 November 2010 and 15 May 2011 (0)			
Name	**Former Title**	**Initial Appearance**	**Judgement**
No convictions or acquittals			

Enclosure II

1. Persons on Trial Between 15 November 2010 and 15 May 2011 (14)				
Case	**Name**	**Former Title**	**Initial Appearance**	**Start of trial**
1.	Jadranko Prlić	President, Croatian Community of Herceg-Bosna	6-Apr-04	"Herceg-Bosna" trial commenced on 26 April 2006
	Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna		
	Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna		
	Milivoj Petković	Deputy Overall Commander, Croatian Defence Council		
	Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council		
	Berislav Pušić	Military Police Commanding Officer, Croatian Defence Council		
2.	Vojislav Šešelj	President, Serbian Radical Party	26-Feb-03	Trial commenced on 7 November 2007
3.	Momčilo Perišić	Chief of the General Staff, VJ	9-Mar-05	Trial commenced on 2 October 2008
4.	Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	17-Mar-05	Trial commenced on 14 September 2009
	Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	21-Jun-08	
5.	Jovica Stanišić	Head, State Security Services, Republic of Serbia	12-Jun-03	Trial commenced on 9 June 2009
	Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	2-Jun-03	
6.	Radovan Karadžić	President, Republika Srpska	31-Jul-08	Trial commenced on 26 October 2009
7.	Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	4 June 2007	Trial commenced on 26 February 2010

2. Persons Accused and Awaiting Trial Between 15 November 2010 and 15 May 2011 (3)				
Case	**Name**	**Former title**	**Initial appearance**	**Start of trial**
1.	Ramush Haradinaj	Commander of the Kosovo Liberation Army in the Dukagjin area	14 March 2005	TBD
	Idriz Balaj	Commander of the Kosovo Liberation Army Black Eagles Special Unit		
	Lahi Brahimaj	Deputy Commander of the Kosovo Liberation Army Dukagjin Operative Staff		

Enclosure III

1. Arrivals Between 15 November 2010 and 15 May 2011 (0)			
Name	**Former Title**	**Initial appearance**	**Start of trial**
No new arrivals			

2. Remaining Fugitives Between 15 November 2010 and 15 May 2011 (2)			
Name	**Former title**	**Place of crime**	**Date of indictment**
Ratko Mladić	Commander, Main Staff, Bosnian Serb Army	BiH	25 July 1995
Goran Hadžić	President, Serbian Autonomous District, Slavonia Baranja and Western Srem	Croatia	4 June 2004

Enclosure IV

APPEALS COMPLETED FROM 15 NOVEMBER 2010[1]

(with date of Filing and Decision)

INTERLOCUTORY		FROM JUDGEMENT	
International Criminal Tribunal for the former Yugoslavia		**International Criminal Tribunal for the former Yugoslavia**	
1. Haradinaj IT-04-84bis-AR65.1	09/12/10-16/12/10		
2. Haradinaj IT-04-84bis-AR65.2	13/12/10-21/12/10	**International Criminal Tribunal for Rwanda**	
3. Gotovina et al. IT-06-90-AR73.5	28/04/10-14/02/11	1. Renzaho ICTR-97-31-A	02/10/09-01/04/11
4. Šešelj IT-03-67-R33B	19/11/10-08/04/11	2. Muvunyi ICTR-00-55A-A	15/03/10-01/04/11
		OTHER	
International Criminal Tribunal for Rwanda		**International Criminal Tribunal for the former Yugoslavia**	
1. Nizeyimana ICTR-00-55C-AR73.2	10/12/10-08/03/11	1. Borovčanin IT-05-88-AR65.12	14/10/10-01/03/11
2. Karemera ICTR-98-44-AR73.19	07/10/10-21/03/11		
3. Ngirabatware ICTR-99-54-AR15(B)	04/04/11-18/04/11	**International Criminal Tribunal for Rwanda**	
		1. Nsengimana ICTR-01-69-A	02/02/10-16/12/10
		2. Karemera and Ngirumpatse ICTR-98-44-AR75	13/01/11-26/01/11
		3. Kalimanzira ICTR-05-88-AR75	19/04/11-26/04/11
		REFERRAL	
		REVIEW	
		International Criminal Tribunal for the former Yugoslavia	
		1. Šljivančanin IT-95-13/1-R.1	28/01/10-08/12/10
		International Criminal Tribunal for Rwanda	
		1. Karera ICTR-01-74-R	22/07/10-28/02/11
		CONTEMPT	
		International Criminal Tribunal for the former Yugoslavia	

[1] **Total number of Appeals Completed from 15 November 2010 = 15**

Interlocutory Appeals = 7
Appeals from Judgement = 2
Other = 4
Referral = 0
Review = 2
Contempt = 0

Enclosure V

APPEALS PENDING AS OF 15 MAY 2011[2]

(with date of filing)

INTERLOCUTORY		FROM JUDGEMENT	
International Criminal Tribunal for the former Yugoslavia		**International Criminal Tribunal for the former Yugoslavia**	
1. Haradinaj et al. IT-04-84bis-AR73.1	28/02/11	1. Šainović et al. IT-05-87-A	09/03/09
2. Haradinaj et al. IT-04-84bis-AR73.2	10/02/11	2. Lukić & Lukić IT-98-32/1-A	21/07/09
3. Stanišić & Župljanin IT-08-91-AR65.1	19/11/10	3. Popović et al. IT-05-88-A	18/06/10
4. Prlić et al. IT-04-74-AR65.25	27/04/11	4. Đorđević IT-05-87/S-A	04/03/11
5. Stanišić & Simatović IT-03-69-AR65.7	28/04/11		
6. Prlić et al. IT-04-74-AR65.24	01/05/11	**International Criminal Tribunal for Rwanda**	
		1. Bagosora / Nsengiyumva ICTR-98-41-A	11/03/09
		2. Ntabakuze ICTR-98-41A-A	11/03/09
International Criminal Tribunal for Rwanda		3. Setako ICTR-04-81-A	29/03/10
1. Nzabonimana ICTR-98-44D-AR77	01/02/11	4. Munyakazi ICTR-97-36A-A	03/08/10
2. Uwinkindi ICTR-01-75-AR72(C)	25/02/11	5. Ntawukulilyayo ICTR-05-82-A	06/09/10
		6. Kanyarukiga ICTR-02-78-A	09/12/10
		7. Hategekimana ICTR-00-55B-A	16/03/11
		OTHER APPEALS	
		REFERRAL	
		REVIEW	
		International Criminal Tribunal for the former Yugoslavia	
		International Criminal Tribunal for Rwanda	
		1. Kamuhanda ICTR-99-54A-R	21/05/10
		2. Niyitegeka ICTR-96-14-R	24/11/10
		3. Ndindabahizi ICTR-01-71-R	31/01/11
		CONTEMPT	
		International Criminal Tribunal for the former Yugoslavia	
		1. Hartmann IT-02-54-R77.5-A	24/09/09
		2. Haxhiu IT-04-84-R77.5-A	31/12/10
		International Criminal Tribunal for Rwanda	
		1. Nshogoza ICTR-07-91-AR77	10/12/10

[2] **Total number of Appeals pending as of 15 May 2011 = 25**

Interlocutory Appeals = 8
Appeals from Judgement = 11
Other = 0
Referral = 0
Review = 3
Contempt = 3

Enclosure VI

Decisions and Orders Rendered from 15 November 2010
(with date of disposition)

International Criminal Tribunal for Rwanda

1. 18/11 – *Renzaho*
2. 25/11 – *Niyitegeka*
3. 10/12 – *Renzaho*
4. 13/12 – *Renzaho*
5. 13/12 – *Nizeyimana*
6. 13/12 – *Kanyarukiga*
7. 15/12 – *Nshogoza*
8. 16/12 – *Renzaho*
9. 12/01 – *Hategekimana*
10. 13/01 – *Renzaho*
11. 14/01 – *Ntawukulilyayo*
12. 14/01 – *Kanyarukiga*
13. 18/01 – *Bagosora et al.*
14. 20/01 – *Kanyarukiga*
15. 20/01 – *Hategekimana*
16. 20/01 – *Hategekimana*
17. 21/01 – *Muvunyi*
18. 27/01 – *Bagosora et al.*
19. 27/01 – *Bagosora et al.*
20. 28/01 – *Muvunyi*
21. 01/02 – *Ndindabahizi*
22. 03/02 – *Renzaho*
23. 04/02 – *Ngirabatware*
24. 07/02 – *Renzaho*
25. 07/02 – *Bagosora et al.*
26. 08/02 – *Ntawukulilyayo*
27. 10/02 – *Bagosora et al.*
28. 11/02 – *Bagosora et al.*
29. 14/02 – *Muvunyi*
30. 24/02 – *Kanyarukiga*
31. 28/02 – *Hategekimana*
32. 01/03 – *Hategekimana*
33. 01/03 – *Nzabonimana*
34. 07/03 – *Ntawukulilyayo*
35. 07/03 – *Bagosora & Nsengiyumva*
36. 09/03 – *Munyakazi*
37. 14/03 – *Renzaho*
38. 15/03 – *Setako*
39. 15/03 – *Bagosora & Nsengiyumva*
40. 16/03 – *Setako*
41. 21/03 – *Nzabonimana*
42. 21/03 – *Bagosora & Nsengiyumva*
43. 23/03 – *Setako*
44. 23/03 – *Setako*
45. 24/03 – *Muvunyi*
46. 24/03 – *Bagosora & Nsengiyumva*
47. 24/03 – *Bagosora & Nsengiyumva*
48. 25/03 – *Setako*
49. 29/03 – *Ndindabahizi*
50. 29/03 – *Bagosora & Nsengiyumva*
51. 31/03 – *Muvunyi*
52. 06/04 – *Uwinkindi*
53. 06/04 – *Kanyarukiga*
54. 08/04 – *Hategekimana*
55. 11/04 – *Bagosora et al.*
56. 12/04 – *Ntabakuze*
57. 13/04 – *Hategekimana*
58. 15/04 – *Kamuhanda*
59. 15/04 – *Ndindabahizi*
60. 15/04 – *Ntawukulilyayo*
61. 21/04 – *Ntabakuze*

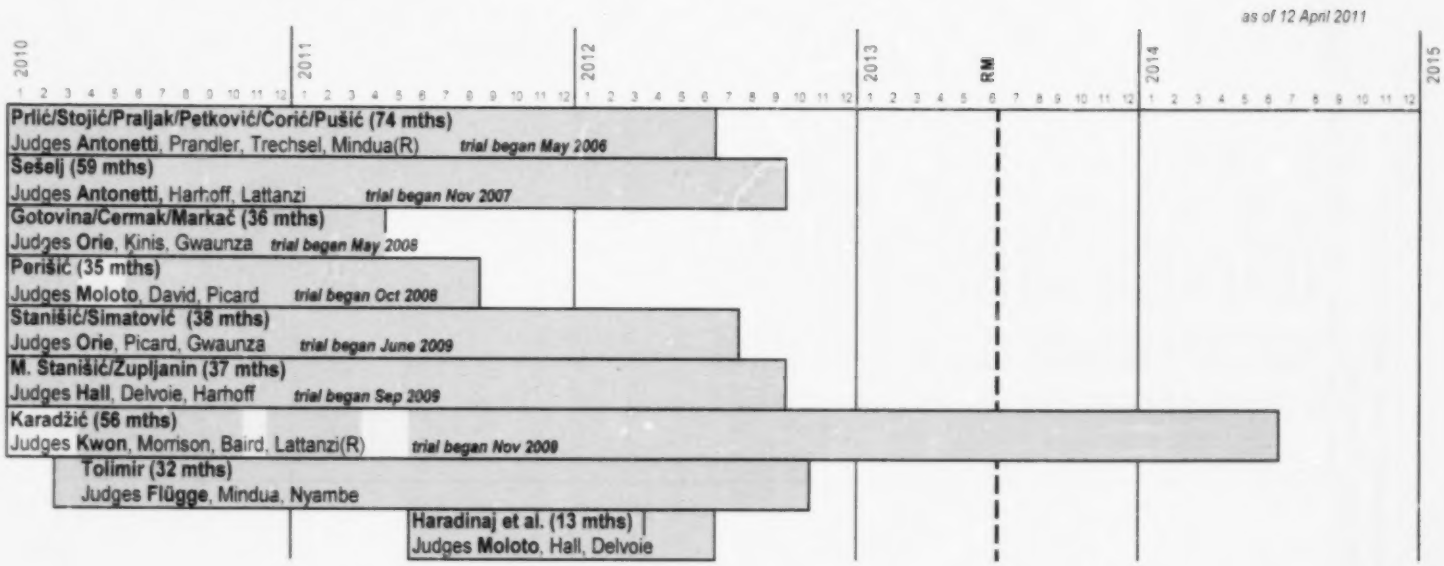
International Criminal Tribunal for the former Yugoslavia

62. 18/11 – *Šainović et al. – Conf.*
63. 30/11 – *Šainović et al.*
64. 03/12 – *Lukić and Lukić*
65. 16/12 – *Conf. and ex parte*
66. 21/12 – *Popović et al. – Conf.*
67. 12/01 – *Popović et al.*
68. 17/01 – *Popović et al.*
69. 18/01 – *Popović et al.*
70. 18/01 – *Conf. and ex parte*
71. 20/01 – *Popović et al. – Conf.*
72. 31/01 – *Popović et al.*
73. 02/02 – *Popović et al.*
74. 04/02 – *Popović et al.*
75. 10/02 – *Šainović et al.*
76. 15/02 – *Popović et al.*
77. 22/02 – *Popović et al. – Conf.*
78. 01/03 – *Lukić and Lukić*
79. 04/03 – *Haradinaj et al.*
80. 07/03 – *Popović et al. – Conf.*
81. *08/03 – Đorđević*
82. *14/03 – Đorđević*
83. 16/03 – *Đorđević*
84. 16/03 – *Haradinaj et al.*
85. 22/03 – *Šainović et al.*
86. 22/03 – *Lukić and Lukić. – Conf.*
87. 23/03 – *Šainović et al.. – Conf.*
88. 05/04 – *Šainović et al.*
89. 20/04 – *Conf. and ex parte*
90. 21/04 – *Šainović et al.*
91. 27/04 – *Conf. and ex parte*

Total number of decisions and orders rendered = 91

Enclosure VII

International Tribunal for the Former Yugoslavia trial schedule


as of 12 April 2011
2010
2011
2012
2013
RM
2014
2015
Prlić/Stojić/Praljak/Petković/Ćorić/Pušić (74 mths)
Judges Antonetti, Prandler, Trechsel, Mindua(R) trial began May 2006
Šešelj (59 mths)
Judges Antonetti, Harhoff, Lattanzi trial began Nov 2007
Gotovina/Cermak/Markač (36 mths)
Judges Orie, Kinis, Gwaunza trial began May 2008
Perišić (35 mths)
Judges Moloto, David, Picard trial began Oct 2008
Stanišić/Simatović (38 mths)
Judges Orie, Picard, Gwaunza trial began June 2009
M. Stanišić/Župljanin (37 mths)
Judges Hall, Delvoie, Harhoff trial began Sep 2009
Karadžić (56 mths)
Judges Kwon, Morrison, Baird, Lattanzi(R) trial began Nov 2009
Tolimir (32 mths)
Judges Flügge, Mindua, Nyambe
Haradinaj et al. (13 mths)
Judges Moloto, Hall, Delvoie

Contempt proceedings (indictment or order in lieu of indictment filed):

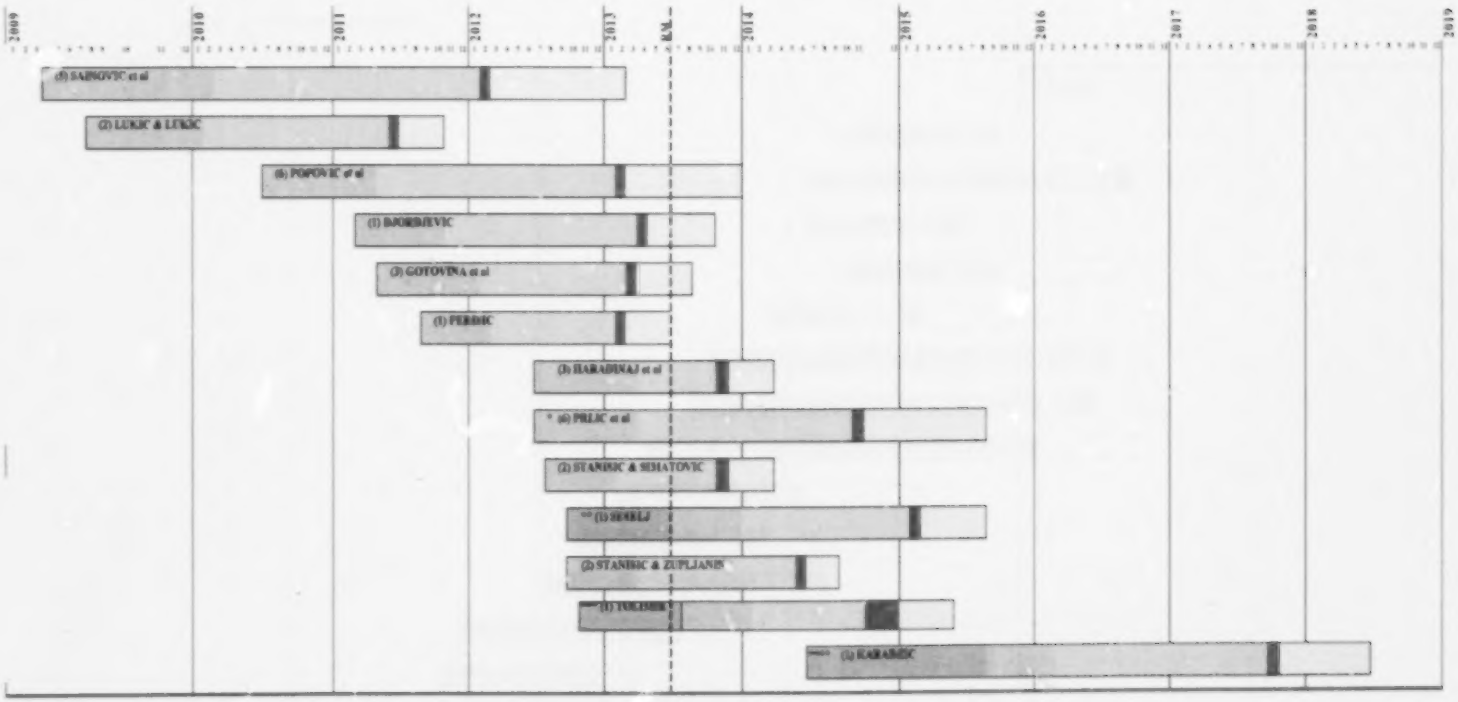
1. IT-04-84-R77.1 Shefqet Kabashi (at large), indictment issued 5 June 2007
   Judges Orie, Moloto, Delvoie
2. IT-03-67-R77.3 Vojislav Šešelj, order in lieu of indictment issued on 3 February 2010
   Judges Kwon, Parker, Hall
3. IT-98-32/1-R77.2 Jelena Rašić, indictment confirmed 26 August 2010
   Judges Morrison, Hall, Delvoie

Fugitives: to be tried upon arrival
Mladić
Hadžić

Key: ongoing, adjournment, pre-trial, fugitive, re-trial

Enclosure VIII

International Tribunal for the Former Yugoslavia appeal schedule



* On the assumption that a solution is found to address the translation issues in this case, no extra time has been added for translation from French to English.

** Seselj: TC Judgement translation into BCS and English, 9 months (CLSS estimated number of U.N. standard pages 1000).

*** Tolimir: TC Judgement translation into BCS, 9 months (CLSS estimated number of U.N. standard pages 1000).

**** Karadzic: TC Judgement translation into BCS, 14 months (CLSS estimated number of U.N. standard pages 2000).

Enclosure IX

International Criminal Tribunal for Rwanda appeal schedule